

**Minutes of the WADA Executive Committee Meeting
16 September 2006
Montreal, Canada**

The meeting began at 9.00 a.m.

1. Welcome, Roll Call and Observers

THE CHAIRMAN welcomed everybody to the second meeting of the Executive Committee of WADA for 2006. As the members would have seen from their extensive study of the material distributed in advance, there was a great deal to do, and he hoped that the material that had been prepared for the members would help them to move forward quickly through the agenda. He welcomed Mr Hase, from Japan, who was joining them for the first time as a member of the Executive Committee. With his extensive experience, Mr Hase would help the Executive Committee wrestle with the problem of doping in sport.

The following members attended the meeting: Mr Pound, President and Chairman of WADA; Mr Kyed, Deputy Permanent Secretary, Sports and Youth Bureau, representing Mr Mikkelsen, Minister of Culture and Sport, Denmark, and Vice-Chairman of WADA; Professor Ljungqvist, IOC Member and Chairman of the WADA Health, Medical and Research Committee; Mr Lamour, Minister for Youth and Sports, France; Ms Elwani, Member of the IOC Athletes' Commission; Mr Hase, Senior Vice Minister of Education, Culture, Sports, Science and Technology, Japan; Mr Fetisov, Chairman of the WADA Athlete Committee and the State Committee of the Russian Federation for Physical Culture and Sport; Mr Burns, Deputy Director of the ONDCP; Sir Craig Reedie, IOC Member; Mr Stofile, Minister of Sport and Recreation, South Africa; Mr Cameron, Chief General Manager, Arts and Sport Division, Department of Communications, Technology and the Arts, representing Senator Rod Kemp, Minister for the Arts and Sport, Australia; Mr Kasper, IOC Member and President of FIS; Mr Ryan, Director of ASOIF, representing Mr Mustapha Larfaoui, IOC Member and President of FINA; Ms Neill, Director of International Sport, International Affairs, Canadian Heritage, representing Hon. Michael Chong, Minister of Sport, Canada; Mr Howman, WADA Director General; Mr Andersen, Standards and Harmonisation Director, WADA; Mr Moser, Director of the European Regional Office; Ms Hunter, Communications Director, WADA; Dr Garnier, WADA Medical Director, European Regional Office; Dr Rabin, Science Director, WADA; Ms Carter, Education Director, WADA; and Mr Niggli, Finance and Legal Director, WADA.

The following observers signed the roll call: Patrick Schamasch, Peter Schonning, Torben Hoffeldt, Ichiro Kono, Dmitry Tugarin, Joe Van Ryn, Brian Blake, Michael Gottlieb, Jogi Sakamoto, Joseph de Pencier, and Vuyo Nghona.

2. Minutes of the Executive Committee meeting on 13 May 2006 in Montreal

THE CHAIRMAN asked whether the members had any comments regarding the minutes of the Executive Committee meeting on 13 May 2006 in Montreal. Unless any comments or corrections were made by noon that day, he would assume that the minutes had been considered approved as circulated.

DECISION

Minutes of the meeting of the Executive Committee on 13 May 2006 approved and duly signed.

3. Director General's Report

THE DIRECTOR GENERAL suggested that Mr Andrew Ryan, the new Secretary General from ASOIF, should also be welcomed to the meeting.

There were a number of issues that he had raised in his written report, and he wanted to speak to some of these.

The first was the UNESCO Convention; the date for the first proposed Council of the Parties had been changed from 5 December to 12 December. That was, of course, provided that 30 countries ratified the Convention before the end of October. WADA had been very busy liaising with governmental representatives of the Foundation Board and, thanks also to Mr Mikkelsen's efforts, WADA now knew that the following countries were, if not already signing documents, very close to doing so: China, Spain, Fiji, Romania, Malaysia, Gambia, Mozambique, Algeria, Eritrea, Nauru, the Bahamas and South Africa. He expected that some of the governmental representatives around the table might have some other updates; however, WADA was relatively confident that there would be 30 countries before the end of October, so that the first conference would occur in Paris.

With regard to FIFA, Mr Niggli would report on the FIFA rules and WADA's progress with the FIFA lawyers. WADA had a meeting scheduled with the lawyers in Montreal on 3 October. He had met with Professor Dvorak, the medical head of FIFA in charge of FIFA's doping control programme, in September, who had raised a couple of issues with him that he wished to advance on.

The first was the WADA published annually statistics that it had obtained from its laboratories as to the analyses of samples collected. The previous year, there had been 187,000 samples analysed by the accredited laboratories, and WADA provided an annual report detailing the samples, in terms of sport and laboratories, etc. They did not take any account of the result management process, or TUEs, for example, but they were laboratory statistics. Some IFs had asked WADA to publish federation statistics, and WADA was happy to do that. FIFA was one of these IFs. WADA had been told by the laboratories that there were more than 20,000 samples analysed in football. WADA had received some FIFA statistics, which showed that 500 samples had been collected in 2004. WADA did not mind publishing that, but that meant that there would obviously be questions asked of football about the other 19,500 samples. He just wished to table the point so that IFs understood that samples were collected not necessarily for the IFs alone, but also for NFs and during events pertaining to the sport in question.

Professor Dvorak had also offered the use of FIFA's medically trained DCOs, and WADA was developing a project with the DCOs whereby they might be engaged with a WADA RADO. He was going to ask whether the DCOs would make themselves available for no-notice out-of-competition testing in one of the regions in which WADA knew that there were little resources and, if FIFA had trained people in the area, any assistance would be gratefully received.

The Vrijman report was a subject on which WADA had taken extensive legal advice. WADA had engaged lawyers in France, Switzerland, Canada and the USA. The advice was such that he asked whether the subject could be dealt with in camera, without it being recorded, because he had been told that there were very good legal reasons for ensuring that any discussion of this sort not be published. WADA knew that it had grounds relating to defamation against several individuals, and this would be reported on in camera. He suggested that this be done after the morning coffee break.

THE CHAIRMAN suggested that, after the coffee break, only the Executive Committee members return to the meeting room to discuss the matter amongst themselves, with no others except the Director General and Legal Director present.

THE DIRECTOR GENERAL said that the issue in relation to the CAS could be reported on. WADA had been encouraged by the IOC President to consider mediation conducted by the CAS with UCI, Lance Armstrong and the French laboratory and ministry. WADA had written expressing its willingness to be engaged, provided that it agreed with the issue to be mediated, the process to be undertaken, and so on. WADA was waiting for a response from the CAS as to how matters could be progressed. He had no idea of the attitudes of the others, apart from the French laboratory, which had written a letter indicating that it would provide material and information but that, due to French legislation, could not partake in mediation not conducted in France. That was the position; WADA now awaited a letter from the CAS indicating the direction that this might take.

As for the major leagues, the WADA management had been busy over the past few weeks having meetings with the NBA, the NFL and the Major League Baseball people in New York. WADA had scheduled meetings with the NHL and the PGA, and these would take place over the coming month. He could not report as to actual progress, but could report on the momentum achieved by these meetings. WADA had invited the various leagues to partake in activities, which would indicate their willingness to come closer to the Code and WADA. WADA now awaited appropriate responses from the major leagues.

When talking about professional sport, he wished to highlight two major initiatives by IFs. The first was the International Sailing Federation, which had worked very closely with the America's Cup organisers, and there was a doping control programme now conducted for the America's Cup that was totally in compliance with the Code. Mr Andersen had, in fact, gone to Valencia in May to observe the conduct of the programme, and had reported to the ISF, indicating that the federation was on track to do everything in the appropriate fashion. The second was the International Tennis Federation; at long last, it had secured the WTA as part of its anti-doping programme. The ITF now had both of the tours, the men's ATP and the women's WTA, under its umbrella of doping control. Mr Ricci Bitti should be congratulated on his work in achieving that.

Ms Hunter and he had attended the very successful symposium held in Paris by the French Government in conjunction with the Council of Europe on trafficking and, as a result, WADA had developed a good relationship with Interpol. The WADA management would be going to Interpol in early October to make a presentation and discuss ways and means of pursuing issues of international trafficking in conjunction with Interpol.

WADA was convening a symposium on investigations and inquiries, jurisdictions and powers of anti-doping organisations, and the need to liaise with government enforcement agencies in Colorado, in partnership with USADA and the USOC in November. This would be a symposium where WADA would invite experts in the field, those who had already experienced the methodology required in investigations, and those who now understood how to work in partnership with government or enforcement agencies. This was a significant issue, since everybody would have read about the recent Spanish inquisition, and the way in which the Spanish authorities had obtained evidence of doping and passed it on to the IFs. WADA knew that some of the information passed on would not be complete, and so there had to be liaison between those responsible for sanctioning at federation level and those who had collected the evidence at governmental level to ensure that all the appropriate evidence could be used in a sanction process. WADA wanted to look at ways and means of achieving that, through model rules or guidelines on how this could be done. He knew that the Chairman had some views on that in terms of ensuring that these partnerships that WADA had between government and sport could be enhanced; he would report to the Executive Committee in November following the symposium with some ideas on how that might be achieved.

With regard to ADAMS, WADA had spent a lot of time, money and energy on its development. WADA had spent a lot of time training many people in the use of ADAMS. The Project Manager, Mr Birdi, was engaged in training in South America. WADA needed follow-up to ensure that those who had been trained actually implemented the programme, and he encouraged the members to ensure that, within their countries or sports, this was now being done. When implemented by people, everybody would see the significant results achieved by the proper sharing of information, and the advance made under WADA's responsibilities of providing a clearinghouse, but WADA did need support. It did not want to train people and then find that the whole effort had gone into a big black hole. So WADA was making huge efforts to do that, and was looking internally at commissioning a person as part of the ADAMS project team to travel round the world and follow up on the training sessions. This would be done over the next few weeks.

WADA had held a very successful meeting of regional directors in Cape Town the previous month. The significance of this was that all of the regional directors would now have their own regional plans and their own regional responsibilities. Of significance were the responsibilities for collection from governments within each independent region, the pursuit of governments in relation to their responsibilities in ratifying the UNESCO Convention, and overseeing and monitoring the establishment within each region of the RADOs. There would be an appropriate regional report for the Foundation Board meetings so that there would not be repetitious information given to Foundation Board members at the regular meetings. They would also be responsible, within their regions, for the conduct of WADA activities at regional events. Coming up in that category were the Asian Games in Doha in September 2006, the Pan-American Games in Rio de Janeiro in 2007, the All African Games and the Afro-Asian Games in Algiers in 2007, and the South Pacific Games, to be held in Samoa in September 2007. The regional directors would be responsible for overseeing Outreach programmes, any possible Independent Observer missions, and so on, rather than this being done from Montreal.

As far as the list of meetings was concerned, he had neglected in his report to mention the visit of IOC President Jacques Rogge to Montreal in June. The IOC President had visited the offices, and had been shown a presentation in relation to all of WADA's activities, and he had been hosted for lunch. WADA had received very helpful feedback from him in terms of some of the programmes in which it was currently involved.

One of those programmes was the RADO project. WADA now had six RADOs up and running. The sixth was the Gulf States and Yemen RADO, and a great logo had been designed, with the seven raindrops indicating the seven countries involved. There were now 91 new countries involved in anti-doping programmes as a result of the RADO initiative. Mr Koehler and Mr May had done sterling work to ensure the proper development of the RADO project. There would hopefully be another four RADOs in operation before the beginning of the following year, and WADA was looking to ensure that every country in the world was engaged in anti-doping by 2010. The significance of the success of the project had led WADA to work with the IFs on a similar concept. It was being described as IFADO. Seven IFs had agreed to be part of a pilot project, whereby the resources would be shared and offices provided, and an administrator responsible for managing an anti-doping programme for those seven IFs engaged. There had been a successful meeting; Messrs Moser and Koehler had attended it. The seven IFs concerned included four from the Olympic Programme (table tennis, archery, triathlon and judo), and three members of GAISF, and WADA looked forward to progress similar to that of the RADOs. He could foresee either that particular office expanding or other similar offices growing, so that the gap that there had been in the past would be filled through the project.

WADA engaged in extensive consultation and sent a lot of documents out to all of its stakeholders. An example was the List, which went to 1,700 individual addressees, all part of the anti-doping family. There were some people who had said that they did not have time to look at the documentation or that WADA was asking too much of them, or

the response time was too short, and so on. WADA did not want to stop what it was doing, as it thought that it was important to be totally transparent, and that it should share this information for consultation with everybody. However, WADA was alert to some who were critical or did not have the energy or resources to respond, and was sympathetic to that. He asked stakeholders represented in the Executive Committee to inform WADA if they did not want documentation to be sent, or to indicate if there were certain areas in which they were more interested than others, to avoid having to respond to other documentation.

WADA was going to engage in an initiative relating to forensic science. An excellent meeting had taken place with Dr Saugy in Lausanne a few weeks ago, and WADA had learnt that forensic science in criminal and civil law had developed significantly and that those in the anti-doping sphere were not taking advantage of those advances. DNA, for example, was used in civil and criminal courts around the world where 97% certainty was considered sufficient to warrant convictions. That was just an example; he was not talking about DNA being used in doping cases yet, but he was indicating that there were a number of experts in forensic science of whom WADA could take advantage to help its scientists develop their methodology and evidence-giving for the benefit of the fight against doping in sport, and this would be advanced over the coming months.

WADA had looked carefully at leaks; there had been a lot of comments made in the media about leaks, and the so-called leaks in particular from the French laboratory. He wished to emphasise that the laboratories did not have any information that could identify any athlete. The laboratories did not know the identity of the samples that they were analysing, and they never would: that was the beauty of the whole system. Any information that the laboratory had could not lead to any information in regard to an athlete. WADA had seen so many stories where there seemed to be a misunderstanding that something had come out of a laboratory and, therefore, an athlete was identified. This was nonsense, and WADA needed to emphasise this so that everybody was alert to it. WADA's information indicated that the press got hold of data relating to a doping test from the athlete or the athlete's entourage. A good example of this was the recent case of Landis. The UCI had put out a statement that a cyclist from the Tour de France had returned a positive A sample, but it had not identified the rider. The rider's team had identified the rider, giving the information to the media and, after such information was given, there was no issue of confidentiality remaining to be protected. That seemed to be the case with many of the examples that WADA had tried to examine: the information came from the athlete or the athlete's entourage.

WADA was making a big effort to work as closely as possible with China. A significant story had come out a few weeks ago in relation to doping in one of China's athlete schools. WADA regarded that very seriously, and had looked at the way in which it might get more information from China and develop better anti-doping programmes within China. Mr Andersen had been significantly involved in those over the past 12 to 18 months. The WADA President would be travelling to China the following month in order to try and gain more information. He was sure that the President would be grateful to hear the members' views on what should be done in China the following month.

The second major country in which he felt significant work needed to be done and which WADA had offered to help was India. WADA was looking at working in India with sporting and government officials over the next few months to see how to help them resolve the problem of doping in India. WADA was looking at progressing in a proactive way, trying to highlight areas of the world in which WADA could make a difference in a positive and practical way.

THE CHAIRMAN thanked the Director General for a comprehensive report. He thought that a number of the issues contained therein should be worked through in order to see whether the members had any comments to make. The first was the UNESCO Convention. He was certainly encouraged to see that the UNESCO authorities were sufficiently confident that 30 countries would be ratifying the Convention and that the implementation conference could take place in December. Were any of the regional

members representing governments in a position to inform about progress in their parts of the world?

MS ELWANI said that, the previous week, a conference about improving sports in Egypt had taken place, and the new minister of sport had been present (the problem was that the ministers kept on changing). He had agreed to sign the papers the previous Thursday, and the papers would be sent that week.

MR STOFIE shared Ms Elwani's view regarding the volatility of the tenure of ministers in Africa. On 28 and 29 September, there would be a meeting in Algiers attended by the African sports ministers to discuss how to speed up and put in place mechanisms for ratification, not only of the UNESCO Convention, but of international treaties. Of course, the South African Parliament had ratified the UNESCO Convention in June that year, and the Foreign Affairs department was dealing with the administrative process. There was progress, but there was still a need for a smoother and shorter way of ratifying international treaties as a whole.

MR FETISOV said that Russia would be ratifying the Convention in October.

MR HASE said that the current Director General of UNESCO was Japanese, and the Japanese Government was currently working very seriously to ratify the Convention and, whilst some time was needed to take care of domestic coordination, the Japanese Government was committed to ratifying as soon as possible.

THE CHAIRMAN looked forward to that ratification. Japan was an important country, and its example would have an impact on other countries.

SIR REEDIE said that he had spoken on the matter at the previous meeting. This had come from the meeting of IFs at the ANOC conference in Seoul, when he had tried to let the government friends know that the sports movement was pretty keen to get the Convention in place. He thought that it would be helpful if the Director General could provide a piece of paper informing which countries had ratified and which were about to ratify, because WADA members kept getting asked who had and who had not ratified. From the sports movement's point of view, WADA might go to the IOC and suggest that it amend its regulations so that a city bidding to host the Olympic Games had not only to be Code-compliant, but it also had to have ratified the UNESCO Convention. He remembered this had been done some years ago with a view to collecting subscriptions, and it had had a dramatic and, in some cases, instantaneous effect, on the grounds that one could not bid to host the Olympic Games and not contribute to WADA.

THE CHAIRMAN asked whether the members would be comfortable with this suggestion. He thanked Mr Reddie for the idea.

MR BURNS said that the USA was working on the issue. He always liked it when messages were delivered from the IFs. At the meeting that morning, however, the point had been discussed that, while everybody was working diligently, and he was sure that many could appreciate the processes that one had to go through in some countries, part of the sentiment that morning had been whether the IFs could explain to the governments and help them with how they were dealing individually and collectively with out-of-competition testing. It would be helpful, in that the government representatives would have something to take to their governments.

THE CHAIRMAN thought that WADA was in the process of doing a compliance audit with all of the IFs and other stakeholders to see whether or not they were implementing these tests.

THE DIRECTOR GENERAL said that the documentation that needed to be completed had been sent out. It could be completed in 10 to 15 minutes, and was a pretty simple document. He would be in a position to report on the outcome of that at the meetings in November.

MR RYAN showed support for having good information on the table from both sides, because it was of great interest to see exactly where the IFs were with Code compliance.

Talking about Europe, he believed that there was a meeting of the European governments in Moscow in October, and he wondered if that would not be an opportunity also to bring some pressure to bear on the European governments to push the process on.

MR LAMOUR said that some pressure could certainly be exerted on the governments to ratify the Convention. Many had expressed concern that the process was slow; however, with democracies, the mechanism for ratification took time. France would be ratifying the Convention before the end of the year; however, French law already enabled the application of the Code and IFs to organise testing, so the Convention would simply oversee the whole process. As Mr Burns had been saying, the governments would like to know exactly how the tests were carried out in competition and out-of-competition. It was necessary to encourage the IFs and the governments to advance hand in hand.

MR KYED informed the members that Mr Mikkelsen would be making a presentation in Moscow to encourage all of the European states to ratify the Convention.

THE CHAIRMAN thought that those sitting around the table tended to be closer to the sport portfolio rather than the foreign affairs portfolio, and sometimes what was urgent to sport was not perhaps as urgent to the departments of foreign affairs. The advantage of being able to create some form of pressure was to be considered by those in sport, and the idea that Mr Reddie had put forward was of note, as was the tremendous ability of the IFs to say that they would not award a world cup event to any country that had not ratified the Convention. That was something that could be quietly done, if not publicly. He received many questions about why it was taking so long, and one could explain that, the bigger and more democratic the country, the harder it was to organise ratification, but it could be done, and it had been seen that, when governments had it in their minds to do so, they could act quickly. Putting the Convention together in the space of 18 months had been a remarkable example of international cooperation, and it was necessary to keep the momentum going as well as possible.

With regard to FIFA, the impression was that WADA was most of the way home; it had been a long and difficult and complex process, but under considerable pressure, and he thanked all of the government representatives who had assisted in making FIFA understand that it had to do whatever it took to be Code-compliant. There had been particular help from the British minister, Mr Caborn, who had arranged a semi-private meeting with senior FIFA officials, the WADA Director General and Director of Legal Affairs, sat them down together and said that a solution had to be found. That had been done; the meeting that would be taking place in early October was partly to review the outcome so far, but also regarding a concern that had developed over recent months, which was that FIFA, the world's most powerful IF, had told WADA in the context of a doping case that it did not have jurisdiction over its member federations and that it could not do anything legally about a complete rejection of all of the Code provisions. WADA was trying to work that out with FIFA, but it was incomprehensible to WADA that FIFA had no ability to step in if a member federation did not apply the Code.

WADA should be in a position to report more fully at the meeting in November.

PROFESSOR LJUNGOVIST said that he had been surprised to read that an IF lacked such a fundamental power.

THE CHAIRMAN noted that the preliminary view within the WADA administration was that FIFA did have that power. The question was whether or not FIFA was willing to exercise it.

The CAS intervention that the Director General had mentioned would depend on whether all of the people and organisations necessary for a complete review were available. Part of the problem that had developed in the Vrijman report was that it had not been an independent report and had not purported to deal with all of the issues that applied. WADA should know by November whether the matter had been resolved one way or another.

PROFESSOR LJUNGOVIST expressed a strong sentiment on behalf of the Olympic Movement that WADA should enter into this mediation, even though the laboratory might not be physically fully ready or it might not even be legally possible for the laboratory to participate. The Olympic Movement hoped that this mediation would take place, although in the physical, but not substantial, absence of the French laboratory.

THE CHAIRMAN replied that the issues would be discussed later on. One of the difficulties was that there were statements in the Vrijman report that WADA had put illegal pressure on the laboratory to disclose information. Unless WADA was able to get the full truth and facts regarding that allegation exposed, it would be a difficult problem.

MR RYAN said that it was a big step forward, if WADA had accepted the principle of mediation by the CAS in this case, and he welcomed that.

THE CHAIRMAN said that WADA was not only content; it was anxious that this occur, but not under circumstances where all of the facts did not become available.

With regard to major leagues, he congratulated the Director General and the staff on the progress made. There had been a very interesting confluence of regulatory, government, media and public concern about the major leagues (professional sports as a whole) and doping problems in them. That had been very helpful in getting everybody's attention. He thought that WADA was in a position to do some useful work with them, and have the kind of cooperation that might, in time, lead to a complete adoption of the Code. Most of the problems could probably be got out of the way relatively simply, except for the period of sanction in the case of a doping offence. The professional sports quite frankly did not have much interest in a two-year sanction for a serious doping offence, but he did not think that they had serious difficulties about the idea of tests, the List, etc., all of which could be worked out. When the Code had first been drafted, negotiated and adopted, there had been a desire on the part of many stakeholders not to purport to deal with the professional sports at that time; the aim had been to get some sense of being able to work with the Olympic Movement and recognised federations and stakeholders before moving on. The additional step was now being taken.

Were there any questions or comments in relation to Interpol? This was a very useful contact to have, and he thanked Mr Lamour for his assistance in organizing contacts with this organisation. Interpol had been involved in the whole joint effort regarding anti-doping since the very first World Conference on Doping in Sport in Lausanne, in February 1999, and he thought that it would be helpful to WADA, particularly in helping to amend to some degree the orientation of governments with respect to trafficking and other transactions in the performance enhancing drug area. Thus far, most countries had focused primarily on what were often referred to as recreational drugs instead of anabolic steroids, EPO and hgH, and the economic impact of that was huge, so he thought that this was the beginning of what should be a very fruitful collaboration.

Were there any comments in relation to the laboratory directors' meeting? As members knew, the two areas that would come under pressure as the fight against doping in sport advanced would be the scientific and laboratory process and the legal side, which was an area that needed to be constantly improved. The science was getting better and more precise, and WADA needed to encourage the laboratories to remain on that cutting edge, and make the decisions that were necessary in order to do their job.

PROFESSOR LJUNGOVIST thanked the Director General for including the second paragraph in his report, which clarified the situation of the laboratories in an excellent manner. They were working on the basis of their own professional competence and integrity; they did not form a formal part of WADA, but were accredited for doing the job. They were service providers to WADA and world sports, and this had been clarified by the Director General.

THE CHAIRMAN said that one of the messages that WADA wanted to get out was that, in cases where the science or the process were attacked, WADA was ready to help

support in a tangible way so that the laboratories should not feel that they were out there exposed all by themselves.

THE DIRECTOR GENERAL recalled that there would be another meeting of the laboratory directors in February 2007, which he and Dr Rabin would attend. The key encouragement that WADA was giving to the laboratories was that they were an important part of what WADA was doing and that they were being listened to, and he thought that they had felt neglected for a while, because they did not sit around the Executive Committee table. WADA was trying to ensure that they felt comfortable providing WADA with the expertise that WADA sought, in a way that could be discussed and developed. That was the purpose of running these regular meetings, which Dr Rabin was organising. He thought that this was a significant step, and thanked Professor Ljungqvist for his comments, because the laboratory directors were now saying that they felt more involved.

THE CHAIRMAN noted that ADAMS was up and running. When used, it was very effective. WADA was working very hard at training stakeholders how to use it. WADA sought an understanding from around the table that it was necessary to encourage people to use ADAMS, because that was the best way to develop a comprehensive out-of-competition testing programme, and whereabouts information was problematic. A lot of money had been spent developing ADAMS; it was a tremendously useful tool, and it needed to be used.

PROFESSOR LJUNGOVIST said that he had reports from countries in his own area, which had been working in anti-doping for decades and had a fairly sophisticated and well-developed system. The feedback that he had was that ADAMS was not fully adjusted to their needs, and was complicated. In a country such as his own, one or two full-time employees would be required to deal with it. Was this feedback that had been received from other places? He was a little concerned that it came from countries that had worked with such systems and had experience.

THE DIRECTOR GENERAL said that there had been no feedback saying that it was too difficult to use; there had been feedback from some countries wishing it to be complementary or linked into programmes that they already had, and WADA was working on that on an individual basis to see that that could be done, but that was a technical issue, rather than a resource issue. The other issue that had been dealt with was the data protection laws, which differed in Europe from country to country. Such queries had now been answered to the satisfaction of the Council of Europe, which would be publishing a paper in the next few weeks indicating that ADAMS was properly compliant with European laws. If a country had extra laws, it would be the responsibility of that country rather than the entire process. That was a significant advance.

THE CHAIRMAN noted that he would be going to China in early October. The understanding and intention was that he would meet with the highest of the sport and political authorities to explore ways in which to work together, but also to make clear that there were certain expectations on the part of the world from China and about the problem of doping in sport. The perceived success of China's Olympic Games in 2008 would be affected by how the world considered that China had dealt with the doping problem. He thought that China was beginning to take this seriously; the finding of and dealing with systematic doping in one of China's sports schools had awakened the Chinese to the fact that there might be other examples out there and that, if they suddenly appeared in 2008 with a team that nobody had ever seen before and with no background in international competition, serious questions would be asked. He would be able to report on the outcomes of that trip at the meeting in November.

PROFESSOR LJUNGOVIST said that he had just been to China to meet the chief medical people of the Beijing Olympic Games, including the group responsible for anti-doping, and the people had been very much concerned about the incident in the school mentioned by the Chairman, and were very much looking forward to any assistance that WADA could provide. He thought that the Chairman would certainly find a very positive

atmosphere in China; the Chinese were expecting a lot of help from WADA, and he thought that they needed it. They were hardworking in their own area, as far as he could judge.

THE CHAIRMAN thought that some of the high profile cases mentioned by the Director General could be dealt with in the session in camera.

MR KASPER noted the case from the Olympic Games in Turin relating to the Austrians. He also spoke on behalf of his federation. It was now seven months, and his federation had not heard one word. He wondered whether the IOC or WADA could let him know if the case was closed or not.

THE DIRECTOR GENERAL replied that WADA shared Mr Kasper's concern in terms of time, and the WADA Medical Director had been in contact with the authorities in Italy, and, as a result of the contact, had been able to talk to Dr Schamasch about some further information that the judicial authorities required in Turin. He could not provide all of the details but, as a result of that, WADA knew that the case was still ongoing and that the inquiry in relation to the Austrians had not been completed. He knew that the IOC had expressed concern at the length of time, and he had liaised with Mr de Kepper in that respect to see what could be done to advance the matter. WADA would do this again in the coming weeks, but the information received the previous week indicated that the inquiry was still ongoing. WADA had heard in the media that Mr Pound was being sued in Austria in relation to this, and had also undertaken inquiries as to whether that was the case, because no official papers had been issued from any court and delivered to WADA. The current inquiries would indicate that it seemed to be a media story and not a court story. That was the best update he could give at the present.

MR KASPER said that it was necessary to be aware that the athletes were still competing, and would be competing for another season. A new winter season was starting; perhaps, in another nine months, the case would be made official, a two-year sanction would be issued, and then the sanction would be over by then. He was not speaking against WADA, but letting athletes go unpunished for two years before even telling them that they might be under suspicion did not give a good image in terms of what was being done in anti-doping.

THE CHAIRMAN stated that this was certainly an issue, and was one that needed to be worked on over the next few months. It was necessary to see how to share information that was available in the public authorities and vice versa if possible. He had been asked by the person responsible in the IOC for the Disciplinary Commission to say that another season was almost upon the sport, and nobody knew what was going on. He would probably write to the prosecutors in Turin to say that the speed was a problem, and that WADA needed some help.

PROFESSOR LJUNGQVIST said that the investigation was certainly ongoing but, until then, the IOC had heard no mention of names. All of a sudden, in the report before him, a name was being mentioned. This was the first time that he had seen it, and he was somewhat confused.

MR NIGGLI pointed out that there was one case that was ongoing; WADA had learnt about it through the decision of the Austrian Ski Federation, and the athlete had now appealed the decision to the CAS, as had WADA, and the case would be heard at the end of September. That had come from the police investigation.

MR KASPER said that this had absolutely nothing to do with the other case. This was an Austrian cross country skier who had admitted that he had done something wrong, but this had nothing to do with the investigation that had been carried out by the IOC and WADA at the beginning.

MR NIGGLI replied that this had been a result of the police raid in the athlete's room.

THE CHAIRMAN said that he had also read that he would be going to jail in Austria, along with the IOC President. Perhaps they could share a cell!

PROFESSOR LJUNGOVIST said that this might be an interesting example of a leak, in that the Austrian federation had taken action without anybody being aware. Was this the case?

MR NIGGLI replied that the Austrian federation had probably carried out results management in accordance with the information that it had received, and then the normal procedure had followed: WADA had received a decision from the Austrian federation, although it had received it a long time after the decision had been taken so, when WADA had launched its appeal to the CAS, the CAS had been about to decide on the case, and had been one week away from making a decision. WADA had said that it had only just heard about the decision and that it wished to partake in the procedure, so had launched an appeal and the hearing would now be taking place in two weeks' time. He guessed that the process followed by the Austrian federation was the normal process in such cases.

PROFESSOR LJUNGOVIST said that the only exception was that they had not informed the IOC.

MR NIGGLI added that they had informed WADA only much later on.

THE CHAIRMAN said that the Director General had mentioned some comments about there being too much information coming from WADA. Had anybody had such feedback from stakeholders? Part of WADA's desire, besides being totally transparent, was to get as much information out to all of the stakeholders about doping issues, problems, protocols, decisions, consultations and so forth, and he would hate to think that people saw such information as junk mail. If people thought that there were things that stakeholders did not want or need, WADA could save time and energy, but WADA did not send anything out unless it was deemed worth sending out. Did anybody have any views on that dissemination of information?

THE DIRECTOR GENERAL said that WADA had conducted a number of new initiatives to ensure that the mail that went out was lowered. WADA did not necessarily produce press releases; it put major current issues up on the WADA website, which were picked up by the media. The considerable initiative taken recently by Dr Garnier with the open letter that he had written in relation to some pretty outrageous comments made by doctors as a result of the Spanish inquiry had achieved significant spread among the world media, as well as among many doctors, and WADA had had some favourable responses. This showed that WADA was looking at ways and means of developing the spread of information in a different way, and Ms Hunter and her team had worked very hard on that.

THE CHAIRMAN thanked the Director General for the update on the advances of forensic science; it was important that WADA operate on the best levels of forensic science and start adopting the kinds of principles that were used in that level of science. It was not necessary, for example, to be 110% sure on every question in order to have the comfortable satisfaction that one needed to act.

MR LAMOUR wished to raise the issue of communication. In order to strengthen communication and make it more effective, it would be useful if the members of the Executive Committee could be made aware of the subject of what was to be communicated, because it was hard to react to issues without knowing the view of the Executive Committee members. He often received information late, which meant that it was too late to react to information in the media. It would be useful to have the information some days or hours prior to its release, in order to be able to prepare. This would be more effective in order to respond to questions by the media and would provide greater clarity.

THE CHAIRMAN thought that this was a good suggestion. This was something that the Director General might be able to deal with. He was often concerned, and he ended up being one of the people contacted by the media, that WADA tied its own hands in the interests of a fair process when, out there in the public, the most outrageous statements

were being made as to the efficacy of tests, the breach of protocols, and so on, which created confusion in the public mind about whether doping control tests were done properly, whether the laboratories knew what they were talking about, and so forth, and it was important for WADA to be in a position not to say that a person was guilty or not, but simply to provide the facts, stating for example that, if an accredited laboratory had found something in a urine sample, the chances were that it had found it, and the tests, which had been around for many years now, were reliable, and some of the pseudo-science that came out in releases from an athlete's entourage was just nonsense. WADA would try and come up with a proposal in relation to these issues. The summer of 2006 was a perfect example of when it was necessary to be able to respond quickly, as a huge number of high profile cases had arisen.

PROFESSOR LJUNGOVIST said that he had one piece of information relating to the final page of the report, which referred to the advantages of sports and governments being able to work together and the incident that had taken place at the European Athletics Championships in Gothenburg some weeks previously. It was a very good example of the advantage of having legislation against doping in place in a country. Rumours had been spreading, and evidence had shown, that there had been materials around in the vicinity of the athletes' accommodation suggesting the possible use of doping substances, and it had been widely speculated in the media, becoming more or less fact. Based on Swedish legislation on doping, the police had been able to intervene and investigate, and had found out that the rumours had been unfounded. Had the police not become involved, the rumours would not have been quashed. This was an example of sports and governments working together.

DECISION

Report by the Director General noted. All suggestions made by members in relation to the report to be considered.

4. Operations / Management

4.1 Constitutional Amendments – Foundation Board Membership

THE DIRECTOR GENERAL said that the first part of the item on the agenda related to the proposed changes to the constitution. He had been the liaison person in a group made up of three members of the Olympic Movement and three government members to look at the way forward. As a result, the paper before the members had been written and agreed to by all of the members of the ad hoc group. This was not the final version, which would need to go into the constitution itself, but the appropriate amendments to the constitution would be drafted if the proposal was approved by the Executive Committee. The changes enabled a rotation in respect of the chair and vice-chair of WADA. Also, the chair and vice-chair were separate from the Foundation Board; in other words, they were additional members but did not need to be chosen from the Foundation Board. The term relating to individuals, which had previously been three terms of three years, had been removed, so there was no restriction on length of membership on the Foundation Board. There was a significant statement in relation to the alternation of the position of chair and vice-chair between the government authorities and the sports movement. He would ask for this to be approved by the Executive Committee so that the drafting required could be carried out. There would be some necessary updating to clause 6 of the constitution, as some parts were old, and were no longer necessary.

MS NEILL asked whether it was accurate to assume that, if the chair or vice-chair came from the Foundation Board, the position would be filled behind. It was important that that be clearly understood.

THE CHAIRMAN replied that this was the case. There would be a vacancy on the Foundation Board, and it would be filled.

MR KYED said that he was happy to see the proposed changes to the WADA Statutes. As a representative of the public authorities, it was a pleasure to register that the representatives of the sports movement had respected the requests of the public authorities, which included, among other issues, the principle of rotation for the post of chair and vice-chair of WADA. Nevertheless, he believed that there were still some small elements to be considered, including the principle of rotation for the post of chair and vice-chair. Furthermore, he thought that there was still a need to clarify what happened if two parties could not agree on any chair. In the current draft, this was not completely clear. What was the precise meaning of "absolute majority"? Could this be solved simply by writing "majority"? On behalf of his minister, he therefore proposed that the administration elaborate further on the proposal.

THE DIRECTOR GENERAL replied that the majority was 50% plus one. If it were a tie, the normal procedure would be that the incumbent would remain until a further election in which there was no tie. That would be the suggested procedure. WADA had thought of the matter, and would include the voting within the amendment to the constitution.

THE CHAIRMAN asked whether the members were disposed to instruct the Director General to draft the proposed amendments and circulate them prior to the meeting in November.

THE DIRECTOR GENERAL thanked those who had been part of the group, James Cameron, Michael Gottlieb, Valéry Genniges and Christophe de Kepper, Arne Ljungqvist and Sir Craig Reedie. He also thanked the US Government for loaning Mr Gottlieb to WADA as a secondment.

DECISION

Proposed amendments to the WADA Constitution to be drafted and circulated prior to the meetings in November.

4.2 Standing Committee Rotation Policy and 2007 Composition

THE DIRECTOR GENERAL said that some stakeholders had made requests to leave the deadline for nominations open a little bit longer. WADA would be quite happy to do that for a further two weeks if the Executive Committee agreed, to allow further nominations to be received. He had been slightly disappointed at the numbers received to date, so this would give the stakeholders an opportunity to reflect on whether there were other individuals that they wished to nominate. He asked the Executive Committee to approve an extension to 29 September for these nominations to be completed.

THE CHAIRMAN noted that a lot of WADA's work was only as good as the work of the committees that were generating recommendations for the Executive Committee and the Foundation Board, so he encouraged the members to think of the best people from their stakeholder groups so that they could be considered.

DECISION

Proposed extension of deadline for nominations to 29 September approved.

4.3 World Conference on Doping in Sport 2007 – Draft Programme Composition

THE DIRECTOR GENERAL said that the members had before them the first draft in terms of timings that WADA had prepared for the World Conference on Doping in Sport in Madrid. He wished to table it to indicate the way in which the management had thought that the conference could be structured, and to seek views and opinions as to whether this was the right way to go. This had been done on the basis that the Code revision would take one day of work, and then the other day could usefully be spent in terms of reflection on activities conducted to date and planned activities for the future, with the chairs being able to conduct sessions indicating the ways forward. He thought that that would engage delegates in ways and means in which they would not otherwise be

engaged, because it would raise issues in each of the spheres of WADA's activities. He was very open to ideas, but recalled that the audience would include presidents of IFs, sports ministers, and entourage. There might not necessarily be a lot of technical people at the conference, so he was looking at subjects that would interest and engage those in the categories he had described. WADA was considerably heartened by the approach taken by the IAAF in running its anti-doping symposium in Lausanne at the end of the month, and had worked very closely with IAAF officials to ensure that that symposium was more at the technical level, as it would be very helpful to WADA in the way forward.

THE CHAIRMAN asked all of the stakeholders to think about possible themes for the conference; it was a great opportunity, and would probably not happen for another four years. There would be an Olympic Congress in 2009 in Copenhagen, and this might be a useful opportunity to reflect on some of the issues that might be coming up there. He asked members to think about the topics and let WADA know as soon as possible in order to be able to plan ahead.

PROFESSOR LJUNGOVIST said that one of the disadvantages with the conference in Copenhagen was that there had been no list in place for discussion at the time. He took it for granted that the List would be one of the themes at the conference in Madrid, and hopefully at an early stage in the conference.

THE CHAIRMAN said that he looked forward to hearing from the stakeholders.

DECISION

World Conference on Doping in Sport 2007
draft programme noted.

5. Finance

5.1 Finance and Administration Committee Chair Report

SIR REEDIE reported that a relatively small and select group of the Finance and Administration Committee had met (Mr Kaltschmitt had not been able to travel, and the member from Iran appeared to have withdrawn), but had had the advantage of the presence of Mr Sprunger, the financial and administration supremo from the IOC, who had been extremely helpful. The minutes were in the members' files; the only thing that he would draw members' attention to as far as the particular piece of work was concerned was that the committee had had before it the annual report from WADA's auditors, which went in great detail through all of the transactions undertaken by WADA and pointed out if any mistakes were being made. The committee had found out that it had dealt with everything that had been raised in 2004, and the items raised in 2005 had all been dealt with by the management and were under control. That management report was available in the office for anybody who wished to see it.

DECISION

Finance and Administration Committee Chair
report noted.

5.2 Government/IOC Contributions Update

SIR REEDIE asked Mr Niggli to comment on the contributions collected to date.

MR NIGGLI noted that WADA had been doing very well that year and, at the beginning of September, had collected 90% of the dues, which was the best ever. He was grateful to everybody for paying earlier than previously. Since the paper had been written, Africa had made another contribution, which meant that it had paid 100%, although the amounts were tiny, and it was the first time that Africa had paid 100%. The problems that WADA was facing were the same as before: they came from Latin America, which was the region in the world in which WADA had the most problems. The countries causing the most problems were Mexico and Venezuela. Brazil had not yet

paid, but had paid in previous years, so he was hoping that the Brazilian contribution was on its way. That was the update on a relatively positive situation.

SIR REEDIE said that, in general, that represented a considerable success for the agency, and certainly made cash control much easier, because the public authority contributions were matched dollar for dollar by the IOC. WADA had in fact agreed with the IOC a rather more regular system of payments; instead of sending Mr Sprunger an invoice for specific payments received from countries, WADA would now receive IOC contributions in lump sums on a regular basis, which made sense.

DECISION

Government/IOC contributions update noted.

5.3 2006 Quarterly Accounts (Quarter 1)

SIR REEDIE referred the members to the papers illustrating the actual spend against the budget, which had been done for the first six months of 2006. This was a very useful tool indeed, as it made it possible to check exactly how much money was being spent, whether WADA's expenditure was ahead or behind the anticipated timetable, etc.

On page 2 of 16, the second last figure referred to *Ad Hoc Legal*; the committee had put together a group of legal experts, and picked their brains. They had had a meeting, which had consumed most of the annual budget for the year, but it was a tiny amount of money compared to going and seeking formal professional advice from these eminent people on a professional basis. Although the percentage looked high, it was a very effective way of getting good advice.

Moving on to page 5 of 16, under *Publications*, the *WADA News Letter* had quite a high figure; the committee had been under pressure on production of one issue, which had involved seeking outside contributions, for which WADA had had to pay, hence the slightly higher cost. He hoped that this would not happen again.

Looking at page 6 of 16, under *Health, Medical and Research*, again, on a percentage basis, there was a *Medical Workshop*, which was the workshop on blood parameters, which was of considerable importance. The end result of doing something important was an item on the expenditure side.

The next page in the documents was new to the members: the *Research Overview*. The Olympic Movement had asked questions as to how to reconcile payments going back to 2001 and 2002, and Mr Niggli would discuss the issue.

MR NIGGLI recalled that, since moving to the IFRS, it was almost impossible to reconcile research from the accounts due to the new accounting system that WADA had been asked to follow. WADA was producing the sheet to give all of the necessary information. There had been two questions raised: one concerned the difference between the budget and the amount committed, and the other concerned the fact that WADA still had the amount for research grants for 2001 and 2002. The answers were the following. In 2001 and 2002, more money had been committed to research than had been in the budget. In order, therefore, to make the accounts square, and to compensate that, in 2003 and 2004, WADA had had to spend less money than the amount in the budget. That explained the differences between the budget and what had been committed. There was money outstanding for the 2001 and 2002 projects because WADA had a number of projects from those years that had not yet been completed, and WADA did not pay the last 20% until the projects had been completed. These projects were either running late or were to be carried out over a period of five years. There were three five-year projects that were still ongoing. At some point, the amounts in the documents would need to be paid upon completion of the projects.

In 2005, there had been some money uncommitted from the budget to research, because there had been no good projects to be funded. This money had been retransferred into available cash for the organisation, and appeared in the cash flow projection as free cash available for operations.

SIR REEDIE made one comment on the ethics and education situation, which applied rather more to 2007 than before. It was the view of the Finance and Administration Committee that, having committed substantial sums to medical research, the Health, Medical and Research Committee should be able to come back and say which projects were running well, which were value for money, etc. He had suggested this to the chairman of the Health, Medical and Research Committee, who had the matter under review. He thought that the same problem would apply to the social research. It was all very well to say that money would be spent on research but, if somebody asked how it was all going and which were the really good projects, he did not suppose that many people would be able to provide an answer. From a financial point of view, he thought that this was a perfectly reasonable thing to do.

WADA could work out the actual income and expenditure against budget on a monthly basis; he was not suggesting that this should be done and distributed to the members, but he hoped that this gave them some idea of the detailed figures that were available.

MR CAMERON asked about the column in the papers entitled *Year to Date Budget*. Was that year to date budget as in the amount that had been budgeted to be spent in the first two quarters, or was that in fact the annual budget? Given the significant variation in the figures in terms of percentage of actual versus year to date budget, it was not clear to him whether WADA was significantly underspent in quite a range of areas or whether in fact that was a proportionately appropriate amount.

MR NIGGLI replied that the column on the right-hand side of the paper was the annual budget. The aim of the previous column, when showing the actual amounts for quarters one and two, was to give an estimation of what the budget for the specific period should be, to show that WADA was in line with the pace of operations that WADA should have. The budget was divided into four quarters in order to match the quarterly reporting, but the *Year to Date Budget* referred to the yearly operations.

THE DIRECTOR GENERAL pointed out that WADA reviewed monthly figures monthly. The Board of Directors sat down and went through everything and, if one of his directors was slightly behind in terms of activities, the issues were addressed fully. He thought that this management technique was working very well, now that WADA had all of the money in advance of the year's activities, and could therefore properly plan and implement activities, rather than awaiting payments before committing.

THE CHAIRMAN clarified that it was not that WADA had to spend the money, but the budget had been set based on a programme of activities and, if the programme was not unfolding fast enough, those responsible were asked why.

PROFESSOR LJUNGVIST said that, one year, the Health, Medical and Research Committee had not even spent the amount allocated to research because it had not found the necessary quality of some of the projects.

The Health, Medical and Research Committee was now in a situation to be able to sum up the research projects funded over the years and report on their results and their importance to the fight against doping. He was sure that this would be of interest to the participants at the conference in 2007, so this had to be put together over the coming year.

MR STOFILÉ stated that he wished to make a request flowing from page 8 of 16. The item was entitled *Worldwide Education*. At the November meeting, he requested that the sub-committee provide an evaluation of the effectiveness and efficiency of the programme. He was wrestling with the efficiency of the programme itself.

THE CHAIRMAN noted that that was a useful suggestion. Basically, WADA did a constant assessment of whether money was being spent carefully and whether results commensurate with the investment were being obtained. That might be something that could be done on a more formal and regular basis – an assessment of the utility of the programme.

SIR REEDIE thanked Mr Stofile for his suggestion, which fitted very well with what had been said previously. He thought that, when the 2007 figures were discussed, where the biggest single increase across the budget was for the ethics and education area, members would see where figures had been placed in terms of what the committee hoped would happen.

DECISION

2006 quarterly accounts update noted and suggestion regarding evaluation of efficiency by Mr Stofile to be considered.

5.4 2006 Revised Budget

SIR REEDIE said that this item concerned the change in what the committee had thought would happen in 2006. The summary on the first page contained two figures. Right at the very top, when the budget had been written, it had been assumed that 1 USD would equal 1.3 CAD. When this had been done again, 1 USD had equalled 1.1 CAD. This made a difference. At the very bottom, where it said *Difference=Contingency*, the net saving in the budget after changing all of the figures around was only 171,000 USD. There were no massive changes that had taken place, and he regarded that as reasonable, and an illustration that the committee was getting its projections rather more accurate as it went ahead.

He had no particular items to draw to the members' attention. On page 4 of 14, the *Trafficking/Interpol* item was new, hence the small additional cost. It was noticeable that the committee had brought in the costs of the Turin Olympic Games and Paralympic Games at noticeably less than had been budgeted, despite the high costs in Turin, and that reflected good management of the team.

Page 6 of 14 illustrated that the *News Letter* costs were higher; this had been mentioned. The *Athlete Outreach* costs were higher, representing rather more activity, and the Turin Olympic Games had already been noted.

On page 7 of 14, quite a lot of money had been saved on List meetings, and he congratulated Professor Ljungqvist on being able to combine as many meetings as he could in the number of days available, and he urged Professor Ljungqvist to continue to do so, because it made financial sense. Interestingly, further down the page, under *Laboratory Accreditation*, he thought that the committee had been able to reduce some of the costs, and the insurance costs were reducing as more and more laboratories bought into the worldwide insurance policy. It was sometimes very difficult for a laboratory to get independent insurance; WADA had it on a worldwide basis and the laboratories paid their part of the premium.

Looking at *Standards and Harmonisation*, the major difference there was under *Programme Development*; this was the Regional Anti-Doping Organisation cost. WADA now had over 80 countries in RADOs, in order to be more effective.

The detailed breakdowns of the regional offices could be seen on the following pages and, at the end, members could see a *Salaries Analysis*. This was a new paper, and members should understand that, because WADA collected its income in USD and spent its salary income in CAD, the net difference that year had been substantially above 800,000 USD. That was an issue that WADA (and all of sport) faced if it received its income in USD and spent it in another currency. He was equally certain that the IOC would be concerned about that. He knew as a sideline that the finance people at the London Organising Committee were acutely aware of this, because they were substantially exposed to the drop in the USD.

DECISION

2006 revised budget noted.

5.5 Draft Budget 2007

SIR REEDIE said that the committee had tried to put together two decent pieces of paper, one being an explanation of what it was doing and, later on, in the papers, a very detailed cash flow statement. In reality, what had been happening was that, as WADA was getting better at collecting public authority contributions, it had collected quite a lot in arrears; these had been matched by the IOC, so WADA had actually built up quite a substantial cash sum. As at the end of 2006, he estimated that it would be somewhere around 9.7 million USD. It was his view that WADA was very unlikely to pick up many more arrears, and could therefore not rely on the annual surprise windfall of having more income than before. He thought that a policy of recognising that WADA had an element of surplus cash should be adopted, and that WADA should eat into that cash over a relatively short period of years, but he had to point out that, unless WADA's contributions increased at whatever rate and, at the last meeting, there had been no particular guidance on how that would be best handled, WADA would be faced, within two or three years, with reducing the operations that it was currently undertaking. He emphasised this by saying that the finance meeting had taken place in August when, every time one looked at a newspaper, all of the stories had concerned doping in sport. It had not seemed to the committee, from a finance point of view, that this was the time to be doing anything that indicated that WADA might be prepared to reduce operations and the effectiveness of WADA. Hence, a budget for 2007 had been prepared at an increase in contributions of 3%, and the justifications for that were set out in detail. That still meant that WADA would be subsidising 2007 with about 3 million USD from the accumulated cash and, if WADA kept going at 3% per annum compound, WADA would be subsidising 2008 by about 2.8 million USD of accumulated cash. That would have to come to a stop some time, and WADA should have a reasonable reserve fund. He was currently unclear as to the amount of that reserve fund. It cost about 1.8 million USD per month to run WADA, so members could do the sums themselves. WADA had its own capital, which was invested separately and came to about 4 million USD, and he needed to look at the interaction of capital and cash reserves to get to an acceptable figure to allow everybody to carry on with their work in the knowledge that there would not be major financial problems. He was afraid that, at the end of the day, with the overall increase in costs in the budget put before the members, it was about 5.6%, of which two thirds was currency problems between the US and Canadian dollars. The members had chosen to come to Canada; they had splendid offices in Montreal, and unfortunately the currency was quite strong vis-à-vis the US dollar. For what it was worth, the speculation was that the Canadian dollar might strengthen marginally over the next two months and that, thereafter, the US dollar was likely to decline. He did not think that this problem was going to go away. Having said all of that, he was happy to look through each of the individual items and, at the end of the document, there were written notes to justify what had been put in the figures.

Looking at the income side, members would see the predictions made on the assumption of a 3% increase. The budget was prepared on the basis that 92% of the assumed total collection would be collected.

On the expenditure side under *Legal and Finance*, members would have read in their papers, and Mr Niggli would be discussing the matter that morning, that WADA was involved in litigation more and more often, and that was expensive and had to be funded. The committee thought that WADA would need to make use of its ad hoc legal team slightly more often than before, hence the slight increase in figures.

Looking at the *Executive Office*, WADA was already committed to 250,000 USD on the World Conference on Doping in Sport in Madrid, and the committee had shown an *Independent Observers* item of 250,000 USD, and that would come up later in the agenda, and that whole programme was under review to make it more effective and find out whether that would have a corresponding reduction in costs.

Looking at *ADAMS*, he thought that this represented a splendid piece of work, because the complexity of the system and the possibility to spend money were huge, and

it had been brought in for less money than had originally been thought, and the committee still thought that it was costing less money than would have originally been planned although, depending on the usage of it and the help desk services, etc., he hoped that everything could be handled within the figure of 1.9 million USD.

There was nothing particular on *Information and Communication*. The *Health, Medical and Research* section included the *Prohibited List*, and he had put a cross against it to note that costs could be reduced depending on the committee chairman's skill at combining meetings. Under *Insurance for Laboratories*, the cost was going down as more of the laboratories were buying into the insurance policy.

Moving on to *Ethics and Education*, this was the biggest increase in the WADA budget. WADA now had a director in place with a programme who would implement the programme. He did not think that WADA had been quite as successful at implementing what it had thought it might want to do in previous years, but Ms Carter was convinced and committed to delivering the programmes that had been included in the document. This was an increase of about 24%, and certainly the public authorities had always said that the educational element was important. Yet again, there was a research fund of 200,000 USD, and WADA would want to know whether this was money well spent.

Looking at *Standards and Harmonisation*, the item relating to *Programme Development* and the RADOs, he was aware that the EOCs were trying to help the establishment of a RADO in Eastern Europe, to be based in Belarus, which would be a major step forward in his view and, if it was necessary to do the same for IFs, this seemed to be an effective way of achieving what WADA was trying to do, but the costs were there.

Moving on to *Operational Costs*, one general comment was that they were just under 6% of the total budget, so he was not unhappy with that in an organisation such as WADA. WADA was unable to reclaim the general sales tax in Canada, so the Canadian costs were up a little.

The members would then be able to see a breakdown of costs for the Cape Town, Montevideo, Lausanne and Tokyo regional offices.

The cash flow statement that he had mentioned illustrated how WADA ate into its cash reserves year after year so that, by the time WADA reached the end of 2009, it would have eaten up all of its accumulated cash from backdated contributions, and he would imagine that the Executive Committee would wish to note that fact and do something about it.

The remaining pages showed the detailed explanation of what was being done, showing the costs across the board.

WADA had, in the main, held any surplus money simply as cash in bank. Mr Niggli and he had gone to see investment managers in Lausanne who had put forward a proposal of how WADA could manage cash reserves over a period so that there would always be ready cash available to meet day-to-day expenses. Instead of just holding money in cash, WADA might want to enter into capital protected arrangements whereby it bought into a portfolio of government bonds, which gave a higher yield but still protected the capital. He hoped to come back to the Foundation Board and ask for authority to proceed. He thought that, in an organisation such as WADA, the Foundation Board should say that it was happy for the reserve to be used in a certain way.

He thought that WADA was going to have to have additional contributions. The Finance and Administration Committee did not believe that this was the time to start cutting back on activities. He understood that everybody who funded WADA would have an annual budget review and discussions about expenditure. He did not think that 3% was beyond anybody's affordability, and the committee made a sufficient case, particularly to the public authorities, that what WADA did was worth that modest degree of additional support. If the members agreed, the committee would polish the proposal up and take it to the Foundation Board in November for approval.

MR CAMERON noted that Australia was broadly comfortable with the proposed increase for 2007 and recognised the work that the committee had done on the budget. However, he noted the longer-term challenge in terms of the budget and operations, and the need for an assessment of the outcomes in particular areas of WADA's operations. He thought that it was important that, in looking at the longer term budget pressures, a consolidated assessment be made of the outcomes achieved across the major expenditure areas of WADA's operations and that was not necessarily suggesting that there was room for cutbacks in terms of operational activities. Australia had acknowledged the important work that WADA did, but there might well be room for achieving those sorts of outcomes through more efficient means or other modes of operation. While a 2007 increase was something that Australia was comfortable with accepting, in the longer run, Australia would like to see an assessment of whether there were efficiencies that could be gained rather than accepting a compound growth in contributions over the years.

THE CHAIRMAN asked Mr Reddie to go ahead and prepare a proposal for November. When he had met Dr Rogge in July, the Athlete Outreach programme at the Olympic Games had been discussed. He had said that WADA was tired of being relegated to a place where it was not convenient for athletes to get in and participate. Dr Rogge recognised the importance of the programme and agreed to ensure that operations would be located in future in places in which a maximum number of athletes would have a chance to participate.

As to the World Conference on Doping in Sport in Madrid, he had been in Madrid earlier that week and reported that the annual sports prizes awarded by the Spanish Government had included a special one for WADA as an international organisation contributing to the development of sport. At that time, he had met with those responsible for organising the conference. They would be delighted to report at some stage to the Executive Committee or Foundation Board. He had suggested that they think about doing that at the meeting in May the following year, because WADA did not have everything planned yet. They were quite excited about the prospect of the conference.

As to the investment policy, he recalled what had been said by the president of another institution with which he had had quite a lot to do in the past. The president had said that if one got financial products and made more money than would have been made by leaving money in a term deposit, nobody would be thankful. If a penny of capital were lost, one would be criticised. He thought that whatever financial product was being put together needed that kind of a conservative approach.

SIR REEDIE thanked Mr Cameron for his comment. He would be happy to try to measure efficiency and try to improve.

The Outreach programme was highly valued, and would be much more effective in a prime location.

Nobody was more acutely aware of the business of dealing with outside advisers on funds rather than putting them in the bank. The treasury operation was already pretty good as it stood. If the people were any good, they would get paid, so it would be necessary to look at the return after fees were taken into account. The one thing he wanted to look at closely was their ability to monitor what was happening in trends in finance and money and movements of interest rates, so that WADA could be in the best place at the best possible time and, perhaps, in the best currency. He thanked the Chairman for his comment, which had also been made elsewhere.

MR BURNS suggested looking at the money more as an operational fund as opposed to investment. He would prefer the previous explanation that the money was there in reserve in the event of an emergency.

THE CHAIRMAN added that WADA was using up a third of its emergency fund for the next year. The Finance and Administration Committee should perhaps be considering whether WADA should be spending the money over a period as short as three years.

DECISION

Draft budget 2007 noted. Final proposal to be made to the Foundation Board in November.

5.6 Working Group on Anti-Doping Costs Update

MR NIGGLI said that the group would have completed its work for the next Executive Committee and Foundation Board meetings, and the chairman of the group would be reporting then on the conclusions.

DECISION

Working group on anti-doping costs update noted.

6. World Anti-Doping Code Review

6.1 Code Project Team Status Report

MR ANDERSEN said that Mr Niggli would shortly take the members through the eleven identified topics related to the content of the Code, which would provide the necessary direction and guidance to continue the work of drafting the Code.

Members of the drafting team would fill in and answer questions when appropriate. The members of the team included Professor Ulrich Haas, from Germany, who had helped draft the current World Anti-Doping Code, Dr Alain Garnier and Mr Jean-Pierre Moser.

With regard to the implementation of the Code, in order to be of assistance to WADA's many signatories, a number of Model Rules had been adopted, which could be easily used by organisations to develop and implement their rules. Additionally, WADA offered one-to-one assistance when requested. The figures on the screen showed that WADA needed to increase its efforts, or rather, some signatories needed to increase their efforts in the implementation of applicable Code provisions in their rules, specifically, NOCs, NADOs and major games organisations. WADA reminded them quite often and realised that the process took time. There would be a more comprehensive impression of the picture and facts on the table for the November meeting. The deadline for reporting to WADA expired on 1 October for monitoring of Code compliance. The tool that had been developed was web-based, and could easily be accessed from any computer with an Internet connection. A letter had been written to all 546 signatories to inform them of their obligation to report in accordance with Article 23.4 of the Code. The signatories had been given a password to assess the confidential database, and WADA had 28 questions that were all related to the various articles of the Code. The answers would presumably provide a picture of how each signatory was complying with the Code. Questions had been weighted on the basis of the importance of compliance. It was also possible to review answers in light of other information available, such as ADAMS.

He showed the members three of the 28 questions that formed part of the questionnaire. It would be interesting to see the answers and review their accuracy.

As to the Code consultation process, the slide indicated the first phase of the process. This had been followed to the letter, and over 60 official submissions had been received to date after sending letters to close to 1,900 organisations and stakeholders. WADA had also collected in its database some 85 comments received after the World Conference on Doping in Sport in Copenhagen in 2003. WADA had centred all of its activities based on the Executive Committee and Foundation Board meetings in order to present and receive feedback on proposals made by the drafting team. Several interested parties had been

invited to meet in order to discuss proposals, directions, and the process itself. These stakeholders would be met following instructions from the Executive Committee.

The first draft of the Code would be out in mid-January after the consultation meetings. There would be two-and-a-half months before starting work on the second draft, during which period WADA would meet with many sports organisations and Sport Accord in April 2007. The Executive Committee would again be presented with a draft at the May 2007 meeting.

The third and final consultation would be similar, and the Executive Committee would be presented with a final draft of the Code in September 2007.

Before presenting the eleven topics for discussion, he mentioned that the topics were identified by the drafting team as of the necessary calibre to be raised in the Executive Committee. Of course, there were many more related to technical, juridical and practical aspects that would be reflected in the first draft.

Those who had made submissions had also been informed that their comments would be posted on the WADA website.

MR NIGGLI said that he intended to go through the topics point by point, stopping after each point to gather feedback. These were comments that the group felt were probably more political options that had to be decided, and the group would then make sure to implement them in a sound legal way, but the issues dealt with by the group had not been purely legal.

The first topic was sanctions. A lot of comments had been received on this particular topic, and there was a broad range of comments, going from total flexibility to taking into account all circumstances, as had been done in the past, to making sure that the system took into account possible aggravating circumstances and sanctions that would go up to four years. The philosophy in the group when discussing this point was to make sure that the fight remained efficient, making it difficult for cheats to escape the system. On the other hand, the group also wanted to make sure that it was possible to deal with the matter of athletes who had made silly mistakes and had had no intention to cheat. The idea of the group in relation to that was that the current system was working pretty well, but needed some fine-tuning. Therefore, the aim would probably be to stick to the structure and the principles in the Code but, in order to give a little bit more of the required flexibility, it would probably be necessary to use the specified substance possibility rather more, so the list of specified substances would be enlarged, which would make it possible, provided the athlete could demonstrate that there was no intention to enhance performance, to be more flexible. The key would be to ensure that the proof and level of proof required from the athlete to demonstrate that there was no intention to enhance performance was satisfactory. Steroids, peptide hormones and the methods would probably be excluded from this possibility, and they would remain in the same sanction scale as currently existed. For example, if this were to be done, in the Lund case, with which the members were familiar, this was a decision whereby the court had stated that the athlete had not intended to cheat, but had been careless with his medication. Therefore, in such a case, that would give a panel the possibility to give a warning rather than a one-year sanction. That was the idea and, on this particular topic, he asked for comments from the Executive Committee. The group would also probably want to have aggravating circumstances and the possibility to have stronger sanctions in certain cases, for example, a distinction between an athlete who had been doping for years as part of an organised system compared to a one-time cheat. In those cases, provided that the ADO could demonstrate this organised system, there would be the possibility of giving a sanction of more than two years.

THE CHAIRMAN noted that the Executive Committee was the steering committee that guided the Code Project Team. He suggested that Mr Niggli present the background and suggest the appropriate direction and, if members of the steering committee did not think that it was appropriate, then they should speak up. If it sounded appropriate at that stage, they would give instructions to go ahead and produce a first draft.

On the issue of sanctions, flexibility going down would be handled by how the substance was classified, and flexibility going up for aggravated circumstances could be four years, and the burden of proof would change. Did this sound like the right way to go ahead? It appeared to be so, therefore Mr Niggli could go on to the next topic.

MR NIGGLI said that the next topic was the Prohibited List. The main issue and comments received in relation to this were whether or not the enhancement of performance criterion should be a mandatory criterion for all substances to be on the List. That meant that there could be substances on the List if they were performance enhancing and presented a health risk, or if they were performance enhancing and contrary to the spirit of sport, but there could not be substances on the List that presented a health risk and were contrary to the spirit of sport. To be precise, such an option meant that, probably, marijuana would be left off the List, and probably it would be very difficult to deal with designer steroids because, until it could be proved that such-and-such a new designer steroid enhanced performance, it would probably be necessary to have a one-year study, during which time the athlete would probably be able to use it. There were implications to that, and he did not think that the group wanted to make a strong recommendation either way. It certainly wanted to hear from the Executive Committee about this. Making the enhancement of performance criterion compulsory would certainly have serious consequences on the List as it currently stood.

THE CHAIRMAN asked whether the members wished to make any comments. Perhaps this was an area that should be left as it was?

PROFESSOR LJUNGOVIST believed that this would be a fundamental change, and it would have to be very much supported by the stakeholders. He had always maintained that, with the present criteria, one could put anything on the List that might be dangerous to the health of the athlete because, if a healthy athlete took a drug intended to prevent or cure disease, it would always have side effects. Certainly it was against the spirit of sport for an individual to take a drug when the drug was not medically indicated; therefore, two criteria were easily fulfilled by listing the whole pharmacopoeia on the List, but that was not workable of course, so the question of whether the drug in question enhanced performance or not was always present. He believed that there was an element of common sense involved in structuring the List. This could, however, be a topic to be presented in a structured manner for discussion at the World Conference on Doping in Sport in Madrid, because he knew that there were feelings out there that the performance enhancing criterion should be a compulsory component. There was a problem with image here. He thought that the team working on the World Conference on Doping in Sport in Madrid might consider including the issue for discussion, not necessarily for a change to the forthcoming Code. Currently, it was possible to place a substance on the List that was not performance enhancing.

THE CHAIRMAN said that WADA's experience was pragmatic, and it did not do stupid things. He should have thought that the Code structure ought to be one that enabled WADA to arm itself with the maximum flexibility to put something on the List and exercise common sense. As to whether the issue should be two of three, two of two or one plus another, he would be reluctant to include that in the Code, as there were many people who would ask how they could approve the Code if it was still being discussed. Perhaps a discussion of spirit of sport could be planned. Would it be fair to say that the Executive Committee thought that the drafting team should continue to retain as much flexibility as possible to put substances and procedures on the List if it seemed appropriate, and that WADA relied on the common sense of its committees and the List Committee in particular to reach sensible conclusions? Again, this appeared to be the wish of the Committee, so Mr. Niggli could go to the next topic.

MR NIGGLI said that the next topic concerned Therapeutic Use Exemptions. Again, the group had received a lot of comments about TUEs, but these were more comments in relation to the administrative burden linked to TUEs than with the principle of having TUEs. It was generally accepted that it was important to have TUEs and control these kinds of substances. The question was how to do that from a practical point of view.

There were different options; the group had considered the possibility to have, for Abbreviated TUEs, which represented the bulk of the TUEs received and the administrative work, the possibility either not to file an ATUE and then, when there was an adverse result, the ADO would go back and seek a proper medical file, or there would be a simple disclosure that the substance had been taken prior to the competition but, in the event of an adverse result, there would be a further inquiry from the ADO. This could be a way of maintaining some control over the population requesting ATUEs, which, from a medical point of view, was somewhat concerning if everybody was free to do anything until an adverse result was obtained. Getting retroactive TUEs was considered by the group to be a very dangerous approach because, in such cases, it would turn into a medical debate on whether or not a TUE should have been granted, and it would probably create more uncertainty for the athletes too. The feeling of the group was that WADA should probably stick to a serious system for TUEs (as opposed to ATUEs) such as the current system, which was working well, and try to find a practical solution for ATUEs, where the administrative burden would be limited to the maximum up front and the possibility of doing more in the event of an adverse reaction would be there. This was the direction the group had been considering.

THE CHAIRMAN noted that there was certainly no question that WADA got a lot of static about the administrative burden; on the other hand, WADA was dealing with somebody who was participating in sport in accordance with rules that said that substance X should not be used and, if the person was using substance X, he thought that the feeling was that there had to be some kind of prior declaration about it, whether it was on the form or through an ATUE.

MR CAMERON said that one issue in relation to TUEs that he thought might be relevant to the issue of retrospective applications was the question about whether there should be some mechanism for recognition of TUEs made by one organisation by other Code-compliant organisations in circumstances where it was not clear, if a TUE was given by an Australian committee and if a person travelled elsewhere, whether that would necessarily be recognised. That also related to some of the potential complexity of the TUE process, and he wondered whether the committee had given any consideration to recognition issues in relation to TUEs.

THE CHAIRMAN replied that they had certainly thought about it. The practical experience to date was that there was a certain amount of institutional testosterone between IFs and national organisations, and the IFs were not willing to commit themselves without reserve to accept nationally given TUEs. He did not know that that had been resolved, but he did know that it had been discussed.

MR NIGGLI said that this was partly covered in 3.7. There was a need to better define the responsibilities between international and national athletes, NADOs and IFs, and how they could interlink. That was also linked to the issue of international and national testing pools. This was certainly part of the work being conducted in the revision. Obviously, one of the fundamental points would be that all athletes taking part in an international competition had to be treated equally; therefore, the body responsible for delivering TUEs at the international level had to be the same for all athletes. Nothing prevented IFs from recognising what was done nationally but, at international events, there should be a body responsible for all athletes, regardless of nationality. In the Code, these roles and responsibilities would certainly be clarified.

THE CHAIRMAN asked Mr Niggli to ensure that the Code Project Team put some practical options together for policy consideration in respect of TUEs, so that the Executive Committee could look at the first draft.

PROFESSOR LJUNGOVIST noted that this matter had been discussed some days ago when the IOC Medical Commission had met the medical chairs of the IFs. A wish had been expressed that WADA's regional offices take on a high degree of responsibility to educate the NADOs about TUE issues, because there was too much incompetence and too little knowledge around the world. There was a big problem there.

MR NIGGLI said that, with regard to team sports, it seemed that teams in individual sports, such as an eight in the sport of rowing, were treated differently to teams in team sports. For example, in rowing, if one member of the crew tested positive, the whole team would lose its position but, in basketball or football, two members of the team could test positive and the results would still stand. The Code (Article 11) was currently very general in terms of what team sports should be doing and, therefore, the question was whether the Code should go into more detail as far as teams and team sports were concerned and whether it would be appropriate for the group to start making proposals in this regard.

THE CHAIRMAN thought that most of the members recognised that there was an inequality of treatment and results, depending on the sport, and the broader question was whether that was fair. Was that an issue that the Executive Committee should address? In one sport, a result was not lost unless two members tested positive, but only two members could be tested; therefore, if the correct two members were not tested, there would be no impact whatsoever.

MR STOFILÉ thought that the same rationale raised previously by Mr Niggli about the responsibilities of IFs and NFs applied here. He did not see why a basketball team should get off the hook for failing to make sure that all of its players were clean, whereas a rowing crew was punishable if it was guilty of similar negligence. Perhaps it would be a good idea to say to the team sport federations that proposals should be made in relation to the issue. By the same token, WADA had a responsibility in the same way as the IFs had a responsibility. His gut feeling would be to say that, if one member of a team was found guilty, the entire team should be found guilty, irrespective of whether the members were rowers or basketball players.

SIR REEDIE said that he was rather attracted by asking the team sports themselves to comment on the matter. The difficulty here was that, what was being called a team as a rowing crew was actually one entity and, if one person in the boat did not row, the boat would go round in circles, whereas a football team, for example, regularly operated with less than a full number. He thought that, logically, it was almost impossible to apply the same rules to these two different scenarios. He thought that WADA should perhaps specifically ask the team sports to say what they thought was fair, without indicating, of course, that WADA would agree with them. His guess was that it would not be possible to have one solution for all.

THE CHAIRMAN noted that, if WADA did put it to the IFs as part of the consultation process, it should be stated that the steering group thought that there was inequity out there, and the IFs should be asked for their suggestions for changes that would diminish that inequity. The Code Project Team was instructed accordingly.

MR NIGGLI said that the issue of athlete support personnel had led to many comments in favour of having stronger measures against athlete support personnel. He thought that everybody agreed with this; the question was how much could be done in the Code. WADA certainly relied on governments and legislation to act strongly against athlete support personnel. The Code was limited to those who fell under the jurisdiction of the IFs, which, for the athlete support personnel, was often a limited group. However, there were some suggestions for discussion. Another question had been about retired athletes. Should WADA have the possibility to give immunity to retired athletes who would be ready to testify and help identify coaches who were still dealing in doping? Such athletes were sometimes reluctant to come forward for fear of being convicted. These were the kinds of questions that were being asked. How could WADA make provisions in the Code to have stronger means of dealing with athlete support personnel? How far was WADA ready to go in terms of providing incentives to athletes to cooperate?

MR LAMOUR noted that what Mr Niggli had said posed more problems in terms of criminal proceedings linked to a doping case. This was a point that needed to be dealt with either before or during the World Conference on Doping in Sport in Madrid. Mr Niggli had referred to athletes speaking out about who supplied them with products but,

in his opinion, the Code should remain as it was. It was necessary to sanction cheats. This was something for governments to deal with. It was important that justice intervene in a positive case, not to sanction the athlete again but in order to find out who had supplied the athlete with the substances. The Code was not necessarily the problem; it was an extremely complicated issue, and it was necessary to find a link between the justice system and the Code. It would be hard to strengthen sanctions taken with athlete support personnel. The real issue concerned who was providing the drugs, and the national courts should be dealing with this.

MR KASPER said that perhaps the term "athlete support personnel" should be redefined, as it included not only the athletes' direct personnel.

MR STOFILÉ said that, at the risk of annoying the members, he had to keep referring to previous discussions. He thought that it was the previous year when the Executive Committee had received a presentation from a young lady who had been found guilty of doping. All of the health-related issues that she had suffered had been presented, but the focus of the story was that the poor athlete had said that, in most cases, athletes did not know what they were being given and what was going to happen to them health-wise. In 2004, in Athens, during the debacle concerning the sprinters, the issue had been discussed during the meeting chaired by Mr Pound. There had been a concrete proposal made that there was no way that WADA could continue to punish only the athlete, leaving out the athlete support personnel. The coaches and managers had to take similar responsibilities to the athletes testing positive. He did not know what the status of the decision was, but it had been a formal WADA meeting and the Commonwealth ministers had taken a formal decision. The Executive Committee should stand by what it had said in Athens and follow what the athletes themselves had said, which was that they were not at the origin of the whole issue; drugs had been introduced to them by others, and he did not see why those who were complicit in such matters could be exonerated.

THE CHAIRMAN asked whether the answer should be that the drafting team should make it clear that the responsibility for sport-related sanctions should rest with the sport authorities (to the extent that one could not be a coach, etc. and involved in Olympic and IF affairs) and that any extra-sport sanctions arising from that should be matters for the public authorities to deal with, and that the public authorities, in the process of the Code revision, should give some thought as to how that might be accomplished. This was the view of the Committee.

MR NIGGLI stated that the next topic concerned athlete whereabouts and missed tests. To date, there was no real harmonisation about violations concerning missed tests, and members would have heard about a recent case in the UK, which had been interesting. The question was, given that harmonisation was necessary to ensure that everybody was treated equally, should this be in the Code or should standards be developed to deal with the whole question of whereabouts information and missed tests? The Code currently did not go into any detail regarding whereabouts; it contained a general provision. Should this be clarified in the Code or after the Code revision in a standard?

SIR REEDIE said that this should go in the Code. The case in the UK would come up, and the IAAF rules said that the sanction was a year but, had the athlete been a judo player, the sanction should have been three months. That was nuts. One either missed a test or not, and it did not matter which sport. This needed to be harmonised and, in all honesty, he thought that it had to be part of the Code. If it were made part of a standard thereafter, something would be weakened and, in this case, he thought it should be absolute. If missing tests was an infraction, it should be applied to all of the athletes across the globe.

THE CHAIRMAN asked whether there was a way of doing both, in the sense that there was a positive obligation to provide whereabouts, there was a specific sanction if athletes did not provide them, but all of the particularities might shift enough that a standard

would be needed to identify them. Would that work for the drafters? He suggested that an International Standard be pursued and looked forward to seeing what that looked like in writing.

MR NIGGLI said that the next topic concerned the definition of athletes. More precisely, the question was how far down should the Code apply? This had been touched on previously when the various responsibilities had been discussed. The Code had implications in terms of whereabouts, TUEs, etc. Some countries, in particular some Nordic countries, were applying the Code to the lowest level of athletes in their countries. The question was what the members thought was adequate. Were they talking about national athletes going to national championships, or were they prepared to go one level under? To which population should the Code apply and where should WADA draw the line?

THE CHAIRMAN noted that he had received several e-mails that summer from somebody who used to be involved in sailing complaining about the fact that a 68-year-old recreational sailor was being suspended from local competitions for failing a doping test. At a certain point, there was a risk of appearing ridiculous. Was this something that, at the international and national level, the Code should apply and, below the national level, it was a matter that would be governed either by the rules of the particular sport or the particular country?

SIR REEDIE thought that the answer was yes, because WADA would also be saved the eternal e-mails from the gentleman in his country who thought that WADA was crazy trying to test everybody who ran a recreational 10 kilometres. This did have to be limited to make it practical and appropriate.

MR KASPER believed that the Nordic countries should be understood because, in many competitions, amateurs would be able to enter and win easily, leaving all the professionals behind. This could happen in events such as the New York Marathon. It was necessary to define levels of competition.

THE CHAIRMAN said that the key was to define the international and national pools and, below those recognised competitive designations, leave it to the sport or the country to define. He would hate to think that somebody might come out onto a golf course and test him; that would be silly.

MR LAMOUR said that there was something quite dangerous related to this topic, as amateurs might be led to take drugs. The principle of the fight against drugs was to set an example to all athletes, irrespective of their levels. Two categories, with one set of rules applying to amateurs and the other applying to elite athletes, would not send out a good political message. If this were the case, there would be a grey area between high-level amateurs and professionals, and these amateurs would then potentially be able to beat low-ranking professionals through doping. He thought that, on the national level, there should be consistency with the international level.

THE CHAIRMAN said that the fact of the matter was that, with the resources available, WADA was unable to do anything beyond a certain level. He did not have the sense of any great appetite on the part of the public or sport authorities to take on more than they already did.

MR KYED said that he would prefer to discuss the matter further. He agreed that there were some problems related to this topic. There was a health aspect on the one hand, and the question of resources on the other. Could this be discussed further to find a solution with which everybody could live? It was difficult to say where to draw the line.

THE CHAIRMAN agreed to push it back to the Code team to say that the IFs had a certain defined jurisdiction, their member national federations had a certain defined jurisdiction, and maybe that was where the formal responsibility rested and, below that, was it really a matter of national laws? He did not know whether WADA was in a position to suggest that the law that applied in France was the law that ought to apply in

Germany. Ultimately, way down, he thought that it was a national, rather than an international, issue. In the consultation process, the team should focus on that issue.

MR NIGGLI said that the next topic concerned the verbatim article in the Code. There had been a few proposals received stating that, should the rule of an IF or NF be different from the rule in the Code, the rule in the Code should prevail. The team had liked the idea but, practically and realistically, it may not work legally, because the athletes were submitted to the rules of their IFs and therefore, asking the athletes to look at the rules of their IFs, realise that a rule was not in compliance with the Code and then go to the Code to find out which rule would apply, was not going to work. However, did the members think that there should be a provision in the Code somewhere containing the principle? Or did they think that it was unrealistic and that this possibility should simply be forgotten about?

THE CHAIRMAN noted that he favoured the "Code article trumps" option. That was the deal. If a body had adopted the Code, and had a verbatim requirement and somehow got that wrong, that was the fault of the body, and the athletes were governed by the Code. The Committee accepted this view.

MR NIGGLI said that the next topic concerned the approval of the International Standards. There had been a suggestion from some countries that the approval of the International Standards should be done by the Foundation Board rather than the Executive Committee, the rationale being that these were as important as the Code because, in practice, they probably had as many consequences as the Code. The practical reality was that the List would have to be approved by the Foundation Board, so there would be a timing issue. One of the reasons the Executive Committee had been felt to be the appropriate body was that the International Standards changed more often; therefore, a quicker reaction was necessary, and the Executive Committee was more flexible in this sense. Again, this was for the Executive Committee members' consideration. Should they stick to the current system, or consider bringing all of the issues before the Foundation Board?

THE CHAIRMAN noted that the practice had been to have a List in effect for a calendar year and to give three months' notice of any changes, which was why there was an Executive Committee meeting in September, so that any changes could be made known to the world in time for 1 October, so that there would be three months' notice. The practice had also been, in accordance with the Statutes, that the Executive Committee was in effect what would ordinarily be the board of directors of an organisation, and the Foundation Board was more like a gathering of stakeholders who got reports. Some said that, if they were Foundation Board members, they should vote on things that were this important. He did not know that it added to the quality of any decision, but it was up to the Executive Committee members to decide.

PROFESSOR LJUNGQVIST thought that it worked fine as it was, and wondered whether or not those proposals were based on some misunderstanding relating to how the Executive Committee and Foundation Board were composed. He would see difficulties in having the List, for instance, decided upon by the Foundation Board. It was a difficult body to make fully understand the details, whereas the Executive Committee was a suitable size of competent people who could question certain elements and make adjustments. By experience, he would prefer to stick with the present system.

SIR REEDIE supported the proposal of the current system. He thought that the consultation process for the List was extremely good and it got better every year because people were now getting used to the idea that this was an important time of the year. The other International Standards did not seem to be up for debate all that often. Most of the changes were generated around the table, and he saw no reason why a Foundation Board member should not be entitled to say that something should be changed. In any reasonable fast moving organisation, one could simply not have everything decided by every single stakeholder around the table all the time. WADA had a good system that worked and it should not be changed.

MR NIGGLI said that the next item concerned provisional suspension. As members were aware, the Code did not make provisional suspension mandatory, so every sport dealt with this issue under its own rules. The question here was simple: did the members think that provisional suspensions should be mandatory for all sports and therefore included in the Code? There was obviously a liability risk with provisional suspensions. The IAAF was well aware of this. The question was whether there would be a liability for WADA if such provisional suspension were imposed for all sports.

PROFESSOR LJUNGOVIST stated that the IAAF did have experience but had stuck with it and he was very pleased with the way in which it was working, although it might mean some litigation. Everybody knew that, in 99% or more of the cases in which the A sample was positive and the person was suspended on the basis of that sample, the B sample would have the same result. This was to protect the innocent athletes from being forced to compete against those who doped. His federation had very strong support from its athletes' commission, and it had actually been an initiative of the commission, because there had been cases of athletes continuing to compete with positive A samples, which was unfair. He thought that this should be compulsory, and it required a unanimous and harmonised approach.

MR NIGGLI added that, while he fully understood what Professor Ljungqvist was saying, WADA had just had an experience before the Swiss courts, including the Federal Court which, unfortunately, had decided that, in the balance of interests, the interests of the athletes to compete were superior to those of the federation not to have to carry out reclassification. This was a provisional suspension in a specific case, but it was one ruling from a court.

THE CHAIRMAN noted that, with a provisional suspension, there was an incentive to get the matter resolved quickly. A lot of the cases were dragging on from 18 to 20 months and, by the time they were resolved, the suspension period was up, and a lot of time and energy had been wasted. He did not think that there was any legal liability if the rule that everybody accepted was for a provisional suspension in the event of a positive A sample, and then there was the built-in protection, which was the right to have the B sample analysed, but one was not in trouble unless there had been bad faith.

MS ELWANI strongly agreed that the provisional suspension should be compulsory because, for example, if a person tested positive on the first day of a seven-day competition, that person could compete over the next six days and win, preventing other athletes from reaching finals and getting a shot at a medal. It was not just about classification. The suspension should be until the athlete had been proven clean. Otherwise, the interests of one athlete were being taken into account whilst ignoring the interests of many others.

MR NIGGLI said that the last point concerned ADAMS and whether the use of ADAMS should be made compulsory through the Code.

MR CAMERON stated that, from Australia's perspective, there would be no problem with a recognition of the role of ADAMS but, in Australia's case, there was a national athletes whereabouts system, which had been developed by the NADO and would be fully interoperative with ADAMS. If there were a compulsory obligation, it was important to recognise that that might be met with an interface with ADAMS, rather than actual use of it.

MR NIGGLI replied that Mr Cameron was totally correct. The idea would be that it was compulsory to put data into ADAMS. Each NADO or IF could use its own system if it had one, but would have to interface with ADAMS so that the necessary information was available in the common system for all of the relevant parties.

MS ELWANI said that there would be a big problem in Africa; in Africa, it was hard to pick up a piece of paper and sign it, so she did not think that there would be a good response if WADA tried to use superior technology that was not, in the main, available (unless, of course, WADA provided such technology).

THE CHAIRMAN said that he was personally reluctant to force somebody to use a tool, however desirable that tool might be and, if WADA was going to be in a position where a good part of an entire continent or continents might be declared non-compliant because they were not able to deal with a technological solution to the problem, it would be unenforceable. It did not look good. Some kind of an international standard might be considered, stating that, by a certain period, everybody should have made every effort to implement ADAMS.

MS ELWANI added that it could be made compulsory that the information had to be provided, either by e-mail, telephone or post. Using a certain system might not work.

THE CHAIRMAN said that there were work implications for WADA, but thought that Ms Elwani was right: the key was that the information had to be made available.

MR ANDERSEN said that the Code already stipulated that such information had to be made available to WADA, so it would not be necessary to make any changes in that respect. The question had been only whether or not to make ADAMS compulsory, and the answer had been given.

THE CHAIRMAN asked if the members had any other comments. This process of getting a revised Code was very close, if not essentially identical, to the process used to get the Code developed and adopted in the first place. It involved an unprecedented degree of consultation with a huge number of stakeholders, so that there would be no surprises by the time of the World Conference on Doping in Sport in Madrid.

SIR REEDIE said that, perhaps towards the end of the World Conference on Doping in Sport in Madrid, it might be worthwhile putting together a short sharp presentation for everybody to say what they had agreed to over the last three days, and the implications on the Code that had been approved. It was necessary to tell people early on what they had agreed to. It would be a slick wind-up of three days.

THE CHAIRMAN warned against making such a presentation before the decisions were taken!

DECISION

Code Project Team status report noted and suggestions and comments made by the Executive Committee to be taken into account.

7. Legal

7.1 Recent Cases

MR NIGGLI started with the Bernard Lagat case, as it had just been resolved, and the IAAF and WADA had won the case, which was great news. He had received the judgement the previous day, but it was all in German, so he had read only a few parts. One issue had concerned the EPO test, and the court had stated that *the claimant was subjected to various doping tests with only one positive A sample that was not confirmed by the B sample. All athletes in thousands of cases were subject to the EPO test and mistakes occurred only in rare cases. It was undisputed that the EPO test was constantly improved as shown by the revised activity test in the period between the A and B sample in 2003. In the interest of a fair competition, it was undisputed and necessary to investigate the eventual doping abuse. It was in the interest of the claimant himself not to be beaten by a doped competitor. As all athletes were subject to the EPO test, the claimant was not treated unequally.* He thought that this was a good statement made regarding the EPO test.

THE CHAIRMAN pointed out that this was not just a CAS decision. It was a court in the state court system.

MR NIGGLI said that this had been from a court in Germany.

He had mentioned briefly that the Danilo Hondo case was still ongoing in Switzerland.

In terms of case follow-up, there had been one basketball case where WADA had been unable to do anything because the national federation had not changed its rules, and he wanted to point out once again the importance for the IFs to ensure that the NFs had changed their rules to be in compliance with the IF rules. Luckily, in this case, FIBA had been able to do something within its Rules.

There were a number of cases that could be seen, including cases relating to doctors' participation and how strict WADA should be in admitting the excuse of doctors being responsible for doped athletes. That was pretty clear.

One case to which he wanted to draw the members' attention was a football case, which was number 18 in their files, because there was an interesting statement in there, that *the consequences of a suspension are different from one sport to another, and from an athlete to another. Due to its predominance within the sports world, football represents a more sensitive discipline than the others in terms of career: the number of national and international competitions is higher, financial interests are more important and, in particular, many are called but few are chosen.* He found it not only unfortunate, but also surprising, to see such a statement in a CAS decision.

THE CHAIRMAN noted that it was a very unfortunate and incorrect statement and, frankly, it was complete nonsense. This was a decision that would not be followed, but it was alarming to look at the panel of arbitrators and see where that kind of statement came from. There was certainly at least one member of the panel who knew precisely what all of this was about and the fact that WADA was trying to harmonise all of the rules, and to say that football was a different sport was incomprehensible.

MR NIGGLI concluded that, in the Puerta decision, the court had highlighted something that had been missing in the Code, in relation to a second offence, and WADA would be remedying that during the Code revision process.

DECISION

Recent cases update noted.

7.2 Vrijman Report to UCI

This item was discussed by the Executive Committee in camera.

DECISION

Vrijman report to UCI discussed in camera.

7.3 Fédération Internationale de Football Association (FIFA)

MR NIGGLI said that that the issue had been touched on already at the beginning of the meeting, so he would simply provide more background to the story. What had happened with FIFA was that WADA had had a discussion with FIFA representatives in May, there had been various exchanges, and they had finally agreed to change their rules, which had been done at their congress in June. Since then, WADA had received a communication from FIFA about the changes, which seemed to be in line with what had been agreed. WADA had not seen the reprinted version of the FIFA rules, because he imagined that this had not yet been completed; neither had it seen the French version of the rules, so he looked forward to seeing them. The changes had been sent to all of the national federations at the start of July.

What was more surprising was that, on 27 July, WADA had received a letter from FIFA about a Mexican player, Mr Carmona, who had tested positive for the second time for stanazolol. FIFA had been telling WADA that it believed that this player should receive a life ban for a second infraction, and WADA would probably agree with them. The interesting thing was that FIFA had been asking WADA to launch the appeal against the decision of the Mexican federation, which had decided not to sanction this particular

player for various reasons, and had not been seeking to sanction the player itself. WADA had written back to FIFA saying that it was certainly ready to cooperate with FIFA in an appeal and deal with that but that FIFA, as the IF responsible for football, should be the one reviewing its national federations' decisions. WADA had had a number of exchanges but, on 31 July, had received an extraordinary answer from FIFA stating that FIFA had no possibility to launch an appeal before the CAS against decisions taken by its member associations. WADA had insisted, in a number of further letters, that WADA's reading of FIFA's rules was quite different, but FIFA had stuck to its position and, on 17 August, had even sent WADA a legal opinion from an outside lawyer confirming that FIFA's regulations did not entitle FIFA to appeal against a decision made by its national federations. WADA was not going to enter into a battle on interpreting FIFA's rules, but what WADA saw clearly was that the Code, particularly the appeal section of the Code, clearly stated that IFs should be able to appeal decisions by their national federations. If FIFA was maintaining this position, it probably meant that the rules were not in conformity with the Code on that particular point. WADA was going to be meeting with FIFA on 3 October, and the point would be discussed. He would report further to the members in November. WADA had appealed the decision, as it had been thought that the player should not be involved in the discussion. As soon as WADA had appealed it, the Mexican Football Federation had said that it was reviewing the decision, so the procedure was on hold. At the same time, WADA had appealed another decision by the Portuguese Football Federation, which had also cleared an athlete of a doping offence. This case was pending before the CAS.

THE CHAIRMAN said that WADA had been extremely successful and, in all matters where it had decided to take an appeal to the CAS, WADA had either won all or substantially all of the issues, and he did not think that there had been a defeat. WADA had been well-served by its in-house staff and the lawyers hired for the purpose.

It was great that Mr Ryan was present and, in his position at ASOIF, perhaps he could get the issue before the IFs to make sure that IF people understood that it was essential to be able to appeal decisions of this nature from their national federations.

SIR REEDIE noted that, in general terms, the whole quality of the jurisprudence coming from the CAS was getting better and better, which made the case highlighted a few minutes ago the first seriously odd piece of jurisprudence that had come out of the CAS in the past 18 months to two years, and it was worrying. Perhaps somebody in the CAS regime should be aware that it did stick out a little bit.

THE CHAIRMAN informed Mr Reddie that WADA had some ideas about what to do.

DECISION

Fédération Internationale de Football
Association update noted.

7.4 Process for Storing of Samples

MR NIGGLI said that this item was a matter for decision by the Executive Committee. It was actually a proposal for the inclusion in the laboratory standards of a new section on the retesting of samples. This had been touched on in June, and he thought that the issue was the following. WADA knew that there was an eight-year period in the Code for retesting samples and therefore it had been necessary to have a protocol to know how to handle such retesting. This was in the attachment in the members' files. Section one of the attachment dealt with samples either when there was urine remaining in the A and B samples or only urine remaining in the B sample but the B had not been opened. That was for fairly standard cases, such as an analysis on the A sample with no adverse result, so what was left was kept for retesting. He guessed that this procedure was fairly straightforward. The legal working group had discussed the issue and had concluded that the best way of dealing with it in the event of only a B sample remaining would be to split the B sample into two in order to have two samples for an analysis and confirmation on the B sample. The process was explained in the attachment.

The real issue discussed by the legal working group related to section two, which was whether or not to keep sample B when it had been opened. This meant that, when there was an adverse result, the A sample was tested and the confirmation test was performed on the B sample, and there might be some substance remaining in the B sample. The question was whether or not to store this B sample for further analysis. In terms of sanctions, there would already have been a doping offence, and it was quite unlikely that an athlete would get another punishment for another substance in the same sample unless one was a specified and the other was not a specified substance. Part of the opinion had been that there was no reason to keep a B sample when it had been opened, and that this could be disregarded. Others in the group had had other views and had felt, in particular, that, as anti-doping organisations had the opportunity to retest samples, it would also be fair to offer athletes the possibility of getting their samples retested, in case some advances in science were able to show that the initial test had provided a false positive. The issue, obviously, was that substances in the sample might disappear over time, therefore the risk was ending up having to fight a case and explaining why the substance was no longer present. The balance was between whether it was fair to give this opportunity to athletes with the possibility of facing numerous unjustified legal cases, or whether the B sample should be disregarded and no longer stored after it had been opened.

THE CHAIRMAN asked whether Mr Niggli had addressed the issue of keeping the sample if there was the right on the part of an athlete to go back years later and ask for a B sample to be tested.

MR NIGGLI replied that that was a cost issue but, on the other hand, keeping unopened B samples for retesting also involved a cost issue.

THE CHAIRMAN clarified that the risk in the fight against doping was that, if the B sample was open and confirmed the use of a specified substance, an athlete could just get a warning, but there might also be some other more virulent substance in it and the athlete could get away with that.

MR NIGGLI said that that would be a possibility.

MR BURNS declared that he favoured option one.

PROFESSOR LJUNGOVIST said that he would support the text and the procedures proposed, including that, once a B sample had been opened and analysed, it should be done away with. He would advise not to keep it for any further analysis for the purpose of anti-doping controls, because then there would be the question of instability of the sample, and he could foresee enormous complications that would not be solvable from a scientific point of view.

MR KYED stated that this was a complex problem, and suggested postponing a decision. This could be considered as part of the Code revision process.

THE CHAIRMAN noted that at least part one could be approved. WADA had been sitting there for three years now without a clear standard. Therefore it was agreed that for now the policy would be as presented for samples that have tested positive.

DECISIONS

1. Proposal relating to the storage of samples that have tested negative approved.

8. Prohibited List

PROFESSOR LJUNGOVIST said that he had left Montreal eleven days previously after a four-day meeting with the List Committee and the Health, Medical and Research Committee, and the proposal with respect to the List had been drawn up. This proposal

did not include the inclusion of hypoxic chambers, which was the next item on the agenda.

8.1 2007 Prohibited List

DR RABIN said that the List had been released for consultation on 4 May and comments had been expected by 1 August, so it was almost three months of consultation, which was a record. The process was explained in the files, so he would not go back to the process itself. What was interesting was that, out of close to 1,700 stakeholders consulted, the response rate had been 2.5%, compared to 3% the previous year, meaning that 39 stakeholders had commented on the List. The difference that year was that more people were coming together to provide joint comments on the List. A total of 165 comments had been received that year, compared to more than 300 the previous year, showing that there was more understanding and hopefully acceptance of the List itself, as opposed to people fed up with being asked to make comments.

He guided the members through some of the modifications to the 2007 draft List. There were very few changes, and it showed some stability in the Prohibited List and wisdom from the experts in the Health, Medical and Research Committee and List Committee in the use of the flexibility given by the Code criteria.

He had tried to indicate in the 2007 draft List the key changes. In blue, members would see mainly wording-related changes, so there was no particular modification, simply clarification. The key changes were in red.

In the first section on anabolic steroids, the first key change was the proposal to go back from a T/E ratio of 4 to 6. WADA had received a significant number of comments on this issue. In the past, the T/E ratio had been lowered from 6 to 4 at the end of 2004 for the 2005 List. WADA had been in the middle of the BALCO affair, in which it had been clear that there had been some manipulation of the T/E level in some of the athletes involved. A laboratory had even been involved in monitoring the T/E level, so it had been felt at the time that it made sense to reduce the T/E ratio from 6 to 4. Since then, it had created a significant additional workload for the laboratories and ADOs with the issue of costs, which had been raised on several occasions and, based on this information, the List Committee had decided that it made sense to revert from 4 to 6. The T/E ratio was one of the elements taken into account by laboratories to observe abnormalities in the steroid profile of the athletes. There were other parameters or substances that could be looked at to qualify or raise high suspicion of a doping case.

There had been some rewording of the section, but the concepts and principles remained the same. There had been no changes to the S2 section. Further changes were contained in S5, which concerned diuretics and other masking agents, where the generic sentence of *other substances with similar biological effects* had been moved to really refer specifically to the diuretics and masking agents.

There was a minor change in the M2 section, concerning chemical and physical manipulation, where the word *acute* had been removed from the paragraph on intravenous infusions to allow for more flexibility.

There were more modifications in the S6 section on stimulants. It was clarified that all stimulants were considered to be prohibited under the List. There had been a clarification for imidazole derivatives for topical use and, of course, as usual, the substances included in the 2007 Monitoring Programme had been kept. There had been three modifications to the list of examples. Benzylpiperazine had been added; this was a stimulant considered as a street drug but it certainly had stimulatory effects. The group had also wanted to clarify the chemical name for carphedon, 4-phenylpiracetam. Finally, tuaminoheptane, a stimulant used to treat nasal congestion, had been added to the List as an example.

It was important to look at the concept proposed to have all the stimulants that were not strictly listed under the list of examples to be considered as specified substances only

if the athlete could establish that the substance was particularly susceptible to intentional anti-doping rule violations, either because of its general availability in medicinal products, or because it was less likely to be successfully used as a doping agent. This would clarify the fact that a substance not listed on the List was potentially considered a specified substance.

There were a few changes and clarifications in the glucocorticosteroids section, where different routes of administration had been clarified, and excellent work carried out by Dr Garnier and the TUE Committee had clarified different medical routes of administration, separating the routes requiring a standard TUE, an Abbreviated TUE and no TUE. This was of great help for the medical personnel using this class of substances, which was widely used in medicine.

In conclusion, it had been specified that alcohol values referred to haematological values and not to values found in breath; two federations had been removed, one from the alcohol section, which was the WCBS, and one from the beta-blocker section, the FIDE.

In the specified substances section, there had been a clarification regarding salbutamol and there had been a specific clarification made in the section on stimulants.

MR LAMOUR asked why the T/E ratio had been raised from 4 to 6. It had recently been made known that a ratio of 4 made it possible to look for exogenous testosterone. The List was part of the Code, and any interpretation of lowering standards was politically hard to explain.

As a layperson, THE CHAIRMAN said that he was really uncomfortable, unless there was some compelling scientific literature, to go back from 4 to 6. WADA had known for years that people had been playing under the 6 level, and the reason that there was a low number of cases between 4 and 6 was that these people were now playing below 4 and some of them got it wrong. He thought that it was a terrible message to send out, unless there was some overwhelming recent scientific evidence to the contrary.

Secondly, he had heard somewhere that finasteride was being put back as a specified substance. He thought that, especially in 2006, after a lot of athletes had been disqualified for using masking agents, to put this back on as a specified substance was off message, and WADA should maybe wait until the Code was redone.

His next question was one that had troubled him ever since it had been taken off the List, and he did not know if the committees were dealing with it, and it concerned pseudoephedrine. His understanding was that WADA was finding more and more use of that, yet it was not being taken off the Monitoring List and being put back on the List as a prohibited substance.

Also as a non-expert, SIR REEDIE said that, under the stimulants, he saw that methamphetamine was still there, but this time with a small e. Presumably this was the narcotic methamphetamine.

PROFESSOR LJUNGOVIST responded to some of the comments. A good explanation had been given as to why it was time to raise the T/E ratio back to 6 from 4. This did not mean that only cases with ratios of 6 or above would be looked into further and analysed, as there were new and other elements and scientific evidence now available that made it possible to judge whether a person was likely to have been misusing testosterone. The science in profiling athletes in terms of their hormone and steroid profiles had advanced considerably. On the other hand, it had been shown that the cases between 4 and 6 had been very low. It could be argued that people were keeping themselves below 4, which meant that the figure might just as well be lowered to 2, so whatever WADA did was arbitrary. The new element that had come into play was that it was possible to judge by other means whether there was a likelihood that a person had been misusing testosterone. Therefore, it had been felt, also by the laboratory people and specialists in the field, that 6 was the right ratio at which to automatically go further.

When it came to finasteride, the Chairman was right; but the List Committee had been explicitly asked by the Chairman to give advice only on the science and not the politics and, if the Executive Committee felt that finasteride should not be placed on the specified list, that would be fine for the List Committee but, from a scientific point of view, the committee felt that finasteride qualified as a specified substance.

Finally, regarding pseudoephedrine, there were still feelings for and against, and it had been felt at that stage that that particular question should be specifically asked in the consultation process. It had not been the case that time; therefore, there had been fairly few comments related to pseudoephedrine, which meant that the committee believed that people were happy with it as it was, although some had argued in favour of the reintroduction of pseudoephedrine on the List. It had been felt that to move a substance from the List and then put it back would require specific consultation.

THE CHAIRMAN said that questions one and three seemed to be the same to him. WADA had gone down to 4 and was going back up to 6 again.

PROFESSOR LJUNGQVIST replied that there was now other scientific evidence, which had not been available previously.

THE CHAIRMAN said that Professor Ljungqvist was talking to a tax lawyer and not a scientist but, politically, he was very uncomfortable with that change.

MR BURNS asked what the benefit was.

MR RYAN said that he was definitely a layman but, having spoken to medical people a number of times about this, as well as hearing the feedback from experts, he was aware that the issue was really that nobody was being caught in that bracket at all, but the amount of expenditure and resources being put into that area of the fight against doping could be much better spent elsewhere, because it was simply not leading to any positives.

DR RABIN thought that the comments made by Mr Lamour were pertinent in that many laboratories were looking at T/E ratios, and sometimes it was almost a case of not being able to see the wood for the trees. As Professor Ljungqvist had said, these were not necessarily the only elements into which one ought to look in order to reveal the manipulation of steroid profiles by some athletes, but the fact was that the T/E ratio was usually exactly what came first. There was always the possibility to go beyond and look at other modifications on the steroid profile, which required more energy and time from the laboratories. That element should not be overlooked, in the sense that some would be tempted to rely almost specifically on the T/E ratio. He thought that WADA should not believe that nobody had been caught in 2005. Three cases had clearly shown the use of anabolic steroids.

For pseudoephedrine, he thought that there was consensus on a scientific level that, in some regions and sports, there was an increase in the use and abuse of this substance. Because some athletes were using very high concentrations of pseudoephedrine, there were high concentrations of cathine, which was a natural metabolite of pseudoephedrine, and cathine was on the List at 5 mg/ml, but those cases could not be prosecuted because pseudoephedrine was allowed. There was a general consensus that pseudoephedrine should make its way back onto the List, certainly with a threshold that was higher than that of the previous List but, as Professor Ljungqvist had said, there was an element of discomfort because it had not been circulated to the stakeholders as part of the consultation process. The question was when this substance should be reintroduced onto the List, and that of course the process would be for it to be on the draft List to be put out for consultation.

THE CHAIRMAN said that he hoped that WADA would be prepared to direct the List Committee to reconsider the addition of pseudoephedrine to the List. As for finasteride, he thought that it should be kept on the List for 2006. As for the T/E ratio, he was still troubled. If the ratio had been 6:1 and the French laboratory mentioned previously had found 5:1, that would have been the end of it. It had gone on because it was over 4;

that was what had prompted the other tests. If it had been under the threshold, the laboratory might not have discovered the 11:1 ratio.

DR RABIN said that it was always possible to look at other parameters. Having discussed this with the French laboratory, it had been aware of possible issues based on previous tests, but what had really triggered the possibility to move on to the next step as part of the process was the fact that the T/E ratio had been above the threshold.

THE CHAIRMAN thought that the political message was very bad.

MR BURNS agreed.

PROFESSOR LJUNGOVIST said that possibly the political message would be even worse if WADA did not listen to those who had spoken up against this and advised WADA that there was no reasonable cost-benefit analysis to justify maintaining the ratio at 4. It was a waste of money and efforts that could be devoted far more effectively to other important aspects in the fight against doping. If one or two cases were dropped as a result, that would be unfortunate, but it was important not to have any false positives. Anyhow, he felt that, if WADA stayed with the ratio of 4, it would be very badly received by those who were concerned with the testosterone and epitestosterone analysis procedures and the huge amount of work for very little benefit. These elements always had to be taken into account when one had limited resources.

THE CHAIRMAN asked where all these people had been when WADA had gone from 6 to 4.

PROFESSOR LJUNGOVIST replied that these people had been against WADA lowering the ratio to 4. There had been very clear and vocal opposition to the ratio of 4 for some time. WADA had two years' experience and it was now felt that it was definitely not worth the associated cost and effort, and he thought that WADA would gain a lot of credibility by moving up from 4 to 6.

SIR REEDIE asked who the people who were going to be upset were. What was the scale of this discontent?

PROFESSOR LJUNGOVIST replied that these people included all those who felt that they had had fairly meaningless work to do in the laboratories to follow up cases and all those who had to deal with the result management, finding out that nothing had been achieved by it. Each case that might be suspicious could be dealt with anyhow, because of new information and knowledge about steroid profiles, so nothing prevented an ADO from dealing with a case with a ratio below 6 or even 4. It was a matter of where the routine for analysis should be set.

SIR REEDIE asked what trigger WADA had to get the person doing the analysis to look further.

PROFESSOR LJUNGOVIST replied that a ratio above 6 (currently 4) or an abnormal steroid profile would be the trigger to go further with a longitudinal study or an isotope ratio measurement, and this could be done with cases below 4 if there was a suspect steroid profile, which would usually be the case in a testosterone case.

THE CHAIRMAN said that he was concerned that some laboratories might have scientific curiosity that would push them further, and others would not go further if the ratio were below 6.

He thought that there was consensus regarding pseudoephedrine, that it would be considered for the following year; finasteride would be kept as a prohibited substance; and, where opinion was divided, he asked how many were in favour of raising the testosterone ratio from 4 to 6. The majority was in favour of keeping the ratio at 4.

DECISIONS

1. Inclusion of pseudoephedrine to be considered for the following year.

2. Finasteride to remain as a prohibited substance.
3. T/E ratio to be kept at 4.

8.2 Artificially-induced Hypoxic Conditions

PROFESSOR LJUNGOVIST said that there had been a report at the previous Executive Committee meeting. The Health, Medical and Research Committee had found that the hypoxic devices met one of the two criteria (performance enhancing and/or inducing a health risk) in the sense that it had been discovered that they might be performance enhancing for certain athletes under certain conditions, whereas the health risk criterion had not been fully met, in that, if those devices that were officially marketed and produced were properly used under proper supervision, there was no basis for saying that they induced health risks. The matter had gone to an ethics panel to see whether it would meet the third criterion (against the spirit of sport). The panel had determined that these devices were against the spirit of sport, and a statement had been issued. A special consultation round had taken place among the stakeholders, and there had been 39 responses, many representing a number of stakeholders. An overwhelming majority had argued against including hypoxic devices on the List and had opposed the position taken by the ethics panel.

It should be recalled that, if a substance or a method met two of the three criteria, this did not necessarily mean that a substance or method would automatically be entered onto the List. It was solely that it could be considered for inclusion, whereas if a substance or method did not meet two of the three criteria, it could not be considered for inclusion. The List Committee, followed by the Health, Medical and Research Committee, had met and found that there had been a lot of input and the overwhelming majority had felt that hypoxic devices should not be included on the List. The committees had agreed with the opinions expressed; therefore, hypoxic devices were not proposed for inclusion. The Health, Medical and Research Committee had felt that, knowing that such devices might be used under improper supervision, such altitude training might be dangerous in the hands of unqualified people and therefore measures should be taken to ensure the proper use of such devices.

It had been felt that it should be the responsibility of governments to make sure that only properly manufactured devices were on the market and that proper supervision should be exercised when such devices were in use. The proposal was that the health aspect be looked into by the IOC Medical Commission and that it should issue a statement as to the use of such devices in sport. It was felt that the matter was being dealt with rather late in the day, as these devices had been used for over 15 years now, and their use was now declining as opposed to increasing. Some ten years ago, it had been fashionable to use hypoxic chambers instead of going for altitude training. It was now known that they were not as beneficial as had initially been thought, and many athletes experienced negative side effects. Some people had asked why WADA was wasting its time on such outdated methods.

MR HASE said that Japan opposed the inclusion of hypoxic devices on the List. There should be a clear distinction between portable devices and facilities designed for the purpose of training and sport science research. It was necessary to clarify the distinction between what did and did not constitute doping. He had been a wrestler, and had used a sauna to train. Saunas belonged to the same category as hypoxic facilities in that they induced conditions that would not occur naturally. Finally, he noted that it was necessary to train in a hypoxic environment to achieve any effect at all.

MR CAMERON noted that Australia was also supportive of not proceeding with listing artificially induced hypoxic conditions as a prohibited method, but noted the concerns expressed about the potential misuse of such methods and would be comfortable with a decision to look into standards in that area. It would be useful that, if it were done, it be done in a manner that provided a mechanism for experts or public authorities to have input.

THE DIRECTOR GENERAL congratulated those who had been at the meetings for keeping the issue quiet. A management approach had been prepared in relation to a leak that might have occurred from the meetings; there had been no leak, which spoke well of all those involved in meetings. It spoke well of WADA in addition, and was of considerable merit to all those concerned.

THE CHAIRMAN said that this was important enough to have a vote. The majority of members had voted in favour of not including hypoxic devices on the List; however, WADA should make it clear that it was not recommending hypoxic devices and that there could be related risks.

PROFESSOR LJUNGOVIST said that the Health, Medical and Research Committee had felt that this should not be included on the List, but that it was not for the committee to give advice on the medical problems, which was why the committee had wished to have the issue referred to a body, such as the IOC Medical Commission, to issue recommendations with respect to the health risks, etc.

THE CHAIRMAN noted that that was one possibility, but that WADA should not exclude other possible sources.

PROFESSOR LJUNGOVIST replied that the committee would look into it.

MR LAMOUR said that he had understood that hypoxic devices were of no real benefit but, if they were misused, they could be dangerous to an athlete's health. Might it be possible to carry out some educational work in 2007? It was important to link the issue to education to explain that such devices were not beneficial. It was necessary to note that they could be dangerous, and that they would not enhance performance.

THE CHAIRMAN thought that WADA might say that medical opinion was that there was an uneven benefit; for some athletes, there was no benefit whatsoever, but for other athletes there was. That was the first determination made; the committee had come to the Executive Committee saying that these devices were potentially performance enhancing, it was not certain as to whether they were dangerous, but it was not possible to decide on the spirit of sport criterion. There was clearly some augmentation of red blood cells in some athletes.

He thanked those involved for their work. He was sure that there would be sighs of relief from the manufacturers.

DECISIONS

1. Proposal not to include the use of hypoxic devices on the List approved.
2. WADA to issue some form of statement on the use of hypoxic devices to discourage athletes from using them, and to include the issue in its education programmes.

9. Science

9.1 Health, Medical and Research Committee Chair Report

PROFESSOR LJUNGOVIST asked Dr Rabin to explain the decision taken with respect to the allocation of research grants.

DECISION

Health, Medical and Research Committee chair report noted.

9.2 Research Projects 2006

DR RABIN said that there had been the usual grant application process, beginning in March with the deadline at the end of May. A record number of 71 applications from the

five continents had been collected, with some areas of the world not fully aware of the grants or coming forward to the extent that WADA would have liked, in particular South America and Africa. Nevertheless, WADA was collecting projects from all over the world, which was important.

There had been the usual process of independent review by the panels of experts selected by the members of the Health, Medical and Research Committee, and the Health, Medical and Research Committee had met at the beginning of September to review the advice and comments from the independent experts and select the projects for support by WADA.

Out of 71 projects, 25 had been selected, which was a percentage of 35%, and this was very encouraging for the applicants, as it was a very good rate.

He noted that the 71 projects came to an amount of about 22 million USD; it had been necessary to limit the grants, but the Health, Medical and Research Committee felt that certainly the key projects had been covered.

Six projects had been approved to detect blood manipulation, including two projects to detect autologous blood transfusions, and four related to EPO detection, either to develop new methods or improve the current method.

There were five projects for genomic techniques to detect gene manipulation or substance abuse, and there had been a record 15 projects applying in the category, which showed the dynamic of the area.

Eight projects had been selected to extend or improve the detection of anabolic steroids, either based on the metabolism of the steroids or also the steroid profiles.

Two projects aimed at the detection of new substances of particular interest for performance enhancement.

One project had been selected on DNA analysis and steroid profiling to deter urine manipulation.

One project had been selected on metabonomics signature doping, a new area of science also being developed by pharmaceutical companies to look at the major impact of substances on elements in urine.

There were also two projects that were an extension of previously approved projects.

This was the total of 25 projects worth 5.4 million USD, the amount of money allocated for the grants that year.

A little bit of money was always set aside for targeted research; that year, about 0.7 million USD would be set aside. There were some issues that the List Committee and the Health, Medical and Research Committee would like to see addressed, particularly relating to beta-2 agonists. There were also several projects that had been approved to detect or improve the detection of designer drugs and look at new substances and the possibility of including them in the future on the List. A little bit of money, about 0.4 million USD, was always kept for what was called reactive research because, over the course of the year, there were often research teams coming forward with some very interesting programmes that the committees believed were important enough to be funded quickly. Of high interest that year was also the work currently under way in science for the follow-up of longitudinal studies and parameters in athletes in support of the athletes' passport.

THE CHAIRMAN asked if anybody wished to make any comments.

DECISION

Research projects 2006 approved.

9.3 Blood Parameters

PROFESSOR LJUNGOVIST said that there had been some federations using blood parameters, originally intended to prevent various types of blood doping, but used under a different rule, namely so-called health protection, which was a doubtful argument, because there was no real evidence that blood parameters above a certain level would induce a health risk. Nevertheless, the argument had been used successfully to date, but it had been confused with anti-doping rules, because the result of an elevated blood parameter would ban the athlete from competing on that particular occasion and it was very difficult for people to understand that this was not a doping penalty. There had been enormous trouble at the Olympic Games in Turin and Salt Lake City, and it was clear that harmonisation was necessary, as federations were using different blood parameters and different sets of rules. It was necessary to see whether this could be incorporated under the umbrella of anti-doping regulations. Dr Garnier and Dr Rabin had been holding meetings with some of the IFs concerned, and he asked Dr Garnier to provide the Executive Committee with further information.

DR GARNIER said that WADA had taken a decision at the meeting that had been held in April with all of the experts from those IFs using blood parameters for screening. It had been noted that the situation was ambiguous and confusing, and that this approach should form part of the anti-doping regulations, and that the first thing to be done was to harmonise the sample-taking process and the decision-making criteria. The various IFs involved had stated that, in order to improve efficiency, there should be longitudinal follow-up and registered in a database.

A second meeting had been held in July for scientific and medical haematology and blood parameter experts to define the necessary decision criteria.

A third meeting would take place at the beginning of 2007, to allow for the drafting of a final proposal and supporting documents.

DECISION

Report on blood parameters noted.

10. Independent Observers

THE DIRECTOR GENERAL said that the paper in the files summarised the meeting of Independent Observer leaders. WADA was already putting into place their suggestions. An Independent Observer team would go to the Asian Games, made up of some members of WADA management and others from outside, with a more cost-effective and user-friendly process, to include daily reports to the organising committee in relation to doping controls to give them an opportunity to change any issues that might be conducted in the wrong way.

At the end of the games, an Independent Observer diary would be issued, showing what the organisers had done in response. This was a method that would probably be used the following year at some of the other regional events.

The suggestion was to maintain the Independent Observer composition for the Olympic Games, but to reduce the numbers in the team, and confine the project to a more efficient and effective contract. WADA had done what it had said it would do in May and, unless anybody had any objections, progress would continue in that direction.

THE CHAIRMAN noted that one of the benefits to the IOC was that WADA said to the public at large that the doping controls had been properly applied, so he thought that some conclusion other than just a diary was necessary, and also he assumed that WADA would not be willing to take on a mission unless it was satisfied that it could do what was required of a genuine Independent Observer mission.

THE DIRECTOR GENERAL said that he might have sped over the matter too quickly; WADA would certainly not change what it did at the Olympic Games. It would have a

report at the end, but it would not take two months to produce, nor would it be a full volume of text that nobody seemed to read. That part would be improved. The second layer was the one he had described and that would be used at the Asian Games, which major organisers were seeking from WADA. At the end, the publication would be a diary but would also include recommendations.

DECISION

Independent Observer report noted.

11. Other Business

THE CHAIRMAN raised the issue of the continuing correspondence from the UCI. There were a couple of letters that might need to be dealt with.

THE DIRECTOR GENERAL stated that WADA had been made aware of two pieces of correspondence emanating from UCI officials (the president of the UCI and the former president). He was quite comfortable to discuss these if there was any need for discussion. Alternatively, he would deal with them in the normal course of business. As there appeared to be a new unusual approach of corresponding from the outside to the Foundation Board members, WADA management had felt it appropriate to give members an opportunity to comment and ask questions of WADA if necessary.

THE CHAIRMAN said that it would be very helpful if members of the Executive Committee and constituencies would send a signal to these people who liked to copy half of the world on every piece of correspondence thinking that it was going to create additional response or pressure. It was a very amateur way of conducting what should be serious business and he thought that those doing it would benefit from stakeholders telling them to stop.

MR BURNS noted that, in the interest of the issue, it would be appropriate if members made it clear that these people should communicate with WADA in an appropriate and professional fashion. If that came from the Executive Committee, it might help.

MR RYAN endorsed that suggestion. He thought that it would be a good idea if he sat down with the Director General of WADA and UCI representatives to talk this through.

THE CHAIRMAN thanked the members for their support, as it made it very difficult to conduct a professional relationship with anybody if that was going on.

MR BURNS asked members collectively and individually to send their best wishes and prayers to Mr Mikkelsen.

THE CHAIRMAN agreed with Mr Burns' suggestion. WADA hoped to see Mr Mikkelsen back around the table in November.

MR KYED informed the members that Mr Mikkelsen was doing fine but had not been allowed to travel.

THE CHAIRMAN also noted that it was a joy to see Dr Schamasch back and healthy again.

DECISION

The Director General was instructed to reply to the correspondence on behalf of the Executive Committee.

12. Future Meetings

PROFESSOR LJUNGOVIST felt that he was a key person when it came to the Executive Committee meeting in September because of the List, the research projects, etc., but his

eldest son would be celebrating his anniversary on the proposed date, and he could hardly be away from that. It was bad timing, and he was sorry, but wondered whether the meeting could be moved.

THE CHAIRMAN said that this would be fine from an administration perspective. The meeting could be moved to 22 September.

DECISION

Future meetings to be held as follows:
Executive Committee – 19 November 2006;
Foundation Board – 20 November 2006;
Executive Committee – 12 May 2007;
Foundation Board – 13 May 2007;
Executive Committee – 22 September 2007;
Executive Committee – 14 November 2007
(TBC); 2007 World Conference – 15, 16 and
17 November 2007; Foundation Board – 18
November 2007 (TBC).

THE CHAIRMAN thanked the staff for their hard work and the members of the Executive Committee for their participation, and declared the meeting adjourned.

The meeting adjourned at 4.10 p.m.

FOR APPROVAL

RICHARD W. POUND, QC

PRESIDENT AND CHAIRMAN OF WADA